

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

April 15, 2002 - 10:13 a.m.
Concord, New Hampshire

DAY I

RE: DT 00-054 EXCHANGE CARRIERS:
Local Calling Areas.

DT 00-223 INVESTIGATION INTO WHETHER
CERTAIN CALLS ARE LOCAL.

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Susan S. Geiger
Commissioner Nancy Brockway

Jonathan Osgood, Clerk

APPEARANCES: Reptg. Verizon New Hampshire:
Donald Boecke, Esq.

Reptg. Granite State Telephone, Inc.,
Merrimack County Telephone Co., Wilton
Telephone Co., Inc., Northland Telephone Co.
of Maine, Inc., Hollis Telephone Co., Inc.,
Dunbarton Telephone Co., Inc, Bretton Woods
Telephone Co, Inc. & Dixville Telephone Co.:
Frederick J. Coolbroth, Esq.

Reptg. Union Telephone Company:
Joseph Donahue, Esq.

Reptg. WorldCom:
Cynthia Carney Johnson, Esq.

Court Reporter: Steven E. Patnaude, CSR

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2 APPEARANCES: (C o n t i n u e d)

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Reptg. AT&T Broadband:
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Reptg. Global NAPs:
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Reptg. the NHPUC Staff:
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1 P R O C E E D I N G S

2 CHAIRMAN GETZ: Good morning. We'll
3 open the proceeding in dockets DT 00-054 and DT 00-223,
4 regarding Independent Telephone Companies' and competitive
5 local exchange carriers' local calling areas and an
6 investigation into whether certain calls are local. On
7 March 8, 2002, the Commission issued an order on a status
8 conference adopting a new procedural schedule. This order
9 dealt with proceedings that were initiated in March and
10 October of 2000, respectively, to investigate issues related
11 to local calling in New Hampshire. Those proceedings had
12 initially been put together in the stage of encouraging
13 settlement discussions. By the Fall of 2001, it was evident
14 that settlement would not be forthcoming. Hence, the status
15 conference was convened and the hearings that were scheduled
16 to begin today. Can we have appearances at this time?

17 MR. BOECKE: For Verizon New Hampshire,
18 Donald Boecke. Good morning, Mr. Chairman and Commissioners
19 Brockway and Geiger.

20 CMSR. GEIGER: Good morning.

21 CHAIRMAN GETZ: Good morning.

22 MR. COOLBROTH: Good morning,
23 Commissioners. On behalf of Granite State Telephone, Inc.,
24 Merrimack County Telephone Company, Wilton Telephone

1 Company, Inc., Hollis Telephone Company, Inc., Northland
2 Telephone Company of Maine, Inc., Dunbarton Telephone
3 Company, Inc., Bretton Woods Telephone Company, Inc. and the
4 Dixville Telephone Company, I'm Frederick Coolbroth, of the
5 firm of Devine, Millimet & Branch, from the firm's Concord
6 office.

7 CHAIRMAN GETZ: Good morning.

8 MS. JOHNSON: On behalf of WorldCom,
9 Cynthia Carney Johnson.

10 CHAIRMAN GETZ: Good morning.

11 MS. JOHNSON: Good morning.

12 MS. PARKER: On behalf of AT&T
13 Broadband, Stacey Parker.

14 CHAIRMAN GETZ: Good morning.

15 MR. DONAHUE: On behalf of Union
16 Telephone Company, Joseph Donahue, of Preti, Flaherty,
17 Beliveau, Pachios & Haley, of Augusta, Maine.

18 CHAIRMAN GETZ: Good morning.

19 MR. SCHELTEMA: Good morning. On behalf
20 of Global NAPs, Jim Scheltema and William Rooney.

21 MR. FLEMING: Good morning. On behalf
22 of BayRing Communications, Michael Fleming, of the firm
23 Swidler, Berlin, Shereff, Friedman.

24 CHAIRMAN GETZ: Good morning.

1 MS. ROSS: Good morning, Commissioners.
2 For the Office of Consumer Advocate, Anne Ross, and with me
3 today is Bill Homeyer.

4 CHAIRMAN GETZ: Good morning.

5 MS. CUSACK: Good morning, Mr. Chairman,
6 Commissioners Brockway and Geiger, Lynmarie Cusack, on
7 behalf of the staff of the Commission. With me today are
8 Kathryn Bailey, Mary Anne Lutz and Chris Schlegel.

9 CHAIRMAN GETZ: Good morning. Do we
10 have any procedural issues that we need to address and have
11 the parties come to some kind of agreement on the order of
12 witnesses?

13 MR. COOLBROTH: Mr. Chairman, I do have
14 a couple of preliminary matters. The first matter that I'd
15 like to bring to the Commission's attention is in the
16 Commission's order on the status conference, it's Order
17 Number 23,927, dated March 8, 2002. On Page 4, it describes
18 the position, Pages 3 and 4, describes the position of the
19 Independent Telephone Companies. And, on the top of Page 4,
20 the first full sentence says that "It is the ILECs' view
21 that CLECs may not charge the ILEC customer a toll rate for
22 calls within the ILEC's local calling area." And, of
23 course, CLECs don't charge our customers toll rates, and we
24 really had not advanced that position. What our concern was

1 was with the -- what we believe is a misassignment of
2 telephone numbers, which results in calls that we believe
3 should be toll calls and rated as local. So, I did wanted
4 to correct that, the statement of our position, so that
5 there would be no confusion about it.

6 CMSR. BROCKWAY: I'm sorry, Mr.
7 Coolbroth, can you state again which order?

8 MR. COOLBROTH: It is the Commission's
9 order on the status conference. It's Order Number 23,927.
10 It's dated March 8, 2002.

11 CMSR. BROCKWAY: Thank you.

12 MR. COOLBROTH: And, the sentence is the
13 first full sentence on Page 4.

14 CMSR. BROCKWAY: Thank you.

15 MR. COOLBROTH: Secondly, BayRing had
16 previously submitted prefiled written testimony by Mr. Gates
17 which apparently is now being withdrawn, that suggested that
18 certain reports that were filed by Granite State Telephone
19 regarding VNXX usage were in error. I want to take the
20 opportunity to deny that allegation. We probably won't get
21 another one, because they have withdrawn the testimony. But
22 we have ever message, every minute of use, the identity of
23 every calling customer, and the called number -- called
24 numbers to BayRing's 257 Plaistow exchange that were

1 involved. We have the proof behind our numbers. If
2 BayRing's equipment can't read it, or if BayRing has done
3 something else, they have ported that number to someone and
4 didn't tell us, that's their problem. But we were concerned
5 with that allegation and we deny it. Thank you.

6 CHAIRMAN GETZ: Okay. Thank you. Is
7 there -- do any of the parties have any commentary on either
8 of these issues?

9 (No verbal response)

10 CHAIRMAN GETZ: Okay. Thank you. We'll
11 take both those issues under advisement. Do we have a
12 schedule of witnesses that the parties have agreed to?

13 MS. CUSACK: We do, but before we get to
14 that, one of the things at the last status conference that
15 was asked of the parties and Staff of this docket was to
16 come up with a glossary of terms. I had thought that that
17 was submitted. It was brought to my attention that it was
18 not, that the Commission did not have that yet. So, at this
19 point, I would like to present the Commissioners with the
20 glossary. And, I guess we could mark that as the next
21 exhibit for identification in the docket. Ms. Mullholand,
22 in the back of the room, has other copies. We handed out
23 some, but some parties may need an additional copy.

24 CMSR. GEIGER: The bench needs one more.

1 MS. CUSACK: One more?

2 CMSR. GEIGER: Thank you.

3 MS. CUSACK: One of the things, this was
4 a collaborative effort by the parties and Staff in the
5 docket. And, because I failed to realize that it was not
6 submitted to the Commission, we tried to rush and get this
7 this morning. It's just been pointed out to me that some of
8 the things that were agreed to, some changes, and they're
9 really only small changes, were not put in. If you turn to
10 Page 2, down at "Foreign Exchange Service" --

11 CHAIRMAN GETZ: Well, maybe, can we
12 treat it this way? Is it fair to say that all the parties
13 are in general agreement with this document, but that there
14 are some small changes or revisions that need to be made?
15 Is that a fair statement?

16 MR. COOLBROTH: It certainly is from our
17 perspective, Mr. Chairman.

18 MR. BOECKE: Verizon would agree, too,
19 Mr. Chairman.

20 CHAIRMAN GETZ: Can we do this then,
21 instead of going through this line by line, and say we work
22 from this until either to the first break or through the
23 morning, and that, at a break or at lunch, that any
24 revisions that can be -- need to be made will be taken care

1 of and a substitute given to the clerk?

2 MS. CUSACK: That's fine, Mr. Chairman.
3 There really are only three words that need to be inserted.
4 If, I mean, we can make those changes --

5 CHAIRMAN GETZ: We're down to three
6 words?

7 MS. CUSACK: It's three words.

8 CHAIRMAN GETZ: Okay. Let's have the
9 three words then.

10 MS. CUSACK: In "Foreign Exchange", the
11 third line down, second sentence, where it says "FX service
12 is a toll substitute service, allowing callers in the
13 Foreign Exchange to place", and insert "calls", "place calls
14 to the FX customer". On Page 3, "Information Access #", the
15 term "B-O-C", BOC, should be replaced with "LEC", L-E-C.
16 And, Page --

17 MR. COOLBROTH: Mr. Chairman, to be
18 accurate, in "information access", since that phrase is --
19 since, in the definition of "information access", that
20 phrase is a quote from the MFJ, the LEC should probably be
21 in brackets. The actual quote from the MFJ did say "BOC",
22 not "LEC".

23 MS. CUSACK: And, then, on the last page
24 of that document, that says "Central Office", the second

1 line up -- well, third line up from the bottom, the sentence
2 starting "A single central office may serve more than one
3 exchange and", and then this is the insert, "/or", "and/or
4 more than one rate center". They were the three changes.
5 But we certainly can make those changes and then refile the
6 document.

7 CHAIRMAN GETZ: Okay, that would
8 probably be helpful for the Clerk. Okay. We'll mark for
9 identification as "Exhibit Number 1" the "Proposed Glossary
10 of Terms".

11 (The document, as described, was
12 herewith marked as Exhibit 1 for
13 identification.)

14 CHAIRMAN GETZ: Other preliminary
15 matters?

16 MS. CUSACK: It would only be the
17 schedule of witnesses. We might, if you want to know who
18 they are in advance, I certainly can --

19 CHAIRMAN GETZ: Yes, it would be nice to
20 have the full schedule.

21 MS. CUSACK: Okay. The first witness
22 would be Mr. Selwyn, from Global NAPs; thereafter, Verizon
23 would put a panel on with Margaret Cole and Alan Cort; after
24 that was Valerie Wimer, from the ITCs, with Doug Meredith.

1 And, are they a panel or --

2 MR. COOLBROTH: Yes, Mr. Chairman, those
3 -- we would propose to have them appear as a panel. I do
4 point out that Ms. Wimer, we had indicated previously, is
5 not available today. She is available on the other two
6 hearing days, but she wasn't available today.

7 CHAIRMAN GETZ: And, the witnesses are
8 Ms. Wimer and --

9 MS. CUSACK: Doug Meredith, Douglas
10 Meredith.

11 CHAIRMAN GETZ: Okay. And, she'll be
12 available first thing tomorrow?

13 MR. COOLBROTH: Yes, Mr. Chairman.

14 MS. CUSACK: Then, finally, we would
15 have staff, and Mary Anne Lutz and Christian Schlegel are
16 the two Staff members. And, one thing I have not talked to
17 the parties about, but I guess it's as good a time as any,
18 if the parties have no questions for Ms. Lutz, and the
19 Commission would have no questions for her, we might just go
20 ahead and put her testimony in. It is really factual
21 testimony that I don't know that there would be any dispute
22 over. And, we can certainly talk about that and then get
23 back to you to indicate that the parties don't need to
24 cross-examine her. And, if that's the case, then we would

1 only offer Mr. Schlegel, but also put Ms. Lutz's testimony
2 into evidence.

3 CHAIRMAN GETZ: Well, if you have that
4 discussion with the parties, then let us know the result.
5 Any other preliminary matters?

6 (No verbal response)

7 CHAIRMAN GETZ: Then, is it Mr. -- I'm
8 sorry, for Global NAPs, is it Mr. Schultes? I'm sorry. The
9 attorney's name?

10 MR. SCHELTEMA: It's "Scheltema".

11 CHAIRMAN GETZ: "Scheltema". If you
12 could have Mr. Selwyn take the stand.

13 (Whereupon Lee L. Selwyn was duly sworn
14 and cautioned by the Court Reporter.)

15 LEE L. SELWYN, SWORN

16 DIRECT EXAMINATION

17 BY MR. SCHELTEMA:

18 Q Good morning, Dr. Selwyn. How are you?

19 A Good morning.

20 Q Do you have before you an exhibit marked the "Direct
21 Testimony of Dr. Lee Selwyn", filed January 12th, 2001?

22 A Yes, I do.

23 Q Is that correct?

24 A Yes.

1 Q And, that consists of 37 pages, followed by a few
2 diagrams of call flows, as well as a single appendix
3 with your curriculum vitae?

4 A Yes.

5 CHAIRMAN GETZ: Excuse me, Mr.
6 Scheltema.

7 MR. SCHELTEMA: Yes.

8 CHAIRMAN GETZ: I think, for the
9 report's benefit, if you could find a microphone.

10 MR. SCHELTEMA: Oh. Sure. I'm not
11 familiar with your procedures. My apologies.

12 (Short pause.)

13 MR. SCHELTEMA: Okay. Thank you.

14 BY MR. SCHELTEMA:

15 Q As I was saying, the testimony consists of 37 pages,
16 followed by a few call diagrams, as well as your
17 curriculum vitae, is that correct?

18 A Yes.

19 Q Okay. Dr. Selwyn, much has happened since the filing
20 of this testimony more than a year ago. Is there any
21 changes, proposals or modifications that you would
22 recommend to this Commission, in light of the
23 substantial changes and the time that's passed?

24 A Yes.

1 MR. COOLBROTH: Objection, Mr. Chairman.

2 The witness was provided with opportunity to prefile
3 supplemental testimony that would do exactly what has just
4 been asked of this witness. We were not given the benefit
5 of that supplemental prefiled testimony. To the extent the
6 witness is going to orally now on the fly, which should have
7 been done months ago, we object.

8 MR. SCHELTEMA: If I may address it?

9 CHAIRMAN GETZ: Please.

10 MR. SCHELTEMA: Dr. Selwyn has
11 participated in several hearings in the very recent past,
12 including one either last week or the week before in New
13 York, in which a number of conditions were brought forth
14 with respect particularly to the use of 500 series numbers,
15 which allow Verizon to provide, in essence, virtual NXX
16 service, or single local calling area service throughout New
17 York. It's my understanding that they do this all the way
18 from Virginia to Maine. And, this kind of material,
19 although it was available publicly, if you did a search and
20 happened to stumble across it, was really elucidated in the
21 hearings. And, we would think that the Commission would
22 invite an explanation of how it operates and exactly the
23 ramifications of such service in New Hampshire.

24 MR. BOECKE: Mr. Chairman, if I may be

1 heard. I would second Mr. Coolbroth's objection just on the
2 lack of notice. But I would further object with respect to
3 any testimony involving Verizon's 500 service. Verizon had
4 a tariff for 500 service, and, on the consent of the
5 parties, that tariff was withdrawn, pending the outcome of
6 this proceeding. So, for Dr. Selwyn now to have a chance to
7 elucidate to the Commission what he thinks our 500 service
8 is all about, when you don't have the benefit of the Verizon
9 testimony, I think is a prejudice to the record and a
10 prejudice to my client.

11 CHAIRMAN GETZ: Could you explain for me
12 then exactly what -- is Mr. Selwyn planning to comment on
13 what happened in these recent proceedings or is there
14 additional written supplemental that you're proposing?

15 MR. SCHELTEMA: Actually, we would -- we
16 could do either or both. I believe that it may shorten the
17 process if we could use I think it's about five pages of the
18 New York testimony that was recently filed, and that may
19 resolve a lot of the disputes here, or questions that the
20 Commission may have and shorten the process. If you'd like
21 to have some sort of an oral presentation by him, so that
22 the Commission is fully aware of the record of what
23 potential you could be facing in New Hampshire, that's also
24 an alternative.

1 (Bench conference)

2 MR. SCHELTEMA: Your Honor, could I just
3 add one more note. And that is, although Verizon New
4 Hampshire may have withdrawn the tariff relating to 500
5 number series services in New Hampshire, it's still
6 available through the interstate tariff, and is being
7 operated in other states via the interstate tariff, and only
8 the interstate tariff. So, I believe that it's still
9 relevant. And, you can also find it on their Web pages,
10 even though it's withdrawn. So, I'm not sure I understand
11 the relevance of the actual instate tariff operation
12 relating to New Hampshire, since you can order it as an
13 interstate service.

14 CHAIRMAN GETZ: Well, we always have two
15 concerns that we're trying to balance. One is that there is
16 due process to all the parties and there's not unnecessary
17 surprise, in terms of testimony. And, the other is that we
18 be fully informed. I think what the best procedure at this
19 point is to hear Mr. Selwyn's testimony, as it was initially
20 submitted, but that the parties take some time during the
21 day to have an opportunity to understand what exactly it is
22 being proposed, so that there isn't surprise. And, we may
23 have to address later in the day the procedural issue of how
24 -- whether that should be submitted, and, if it is, how the

1 other parties would have an opportunity to fairly
2 cross-examine on that subject matter.

3 MR. SCHELTEMA: Certainly. And, I would
4 indicate that it should not come as too much of a surprise
5 to Verizon, since they confronted the exact same issues in
6 New York several weeks ago. And, I thank you for your
7 attention to this. So, without further adieu, Dr. Selwyn --

8 CHAIRMAN GETZ: Mr. Boecke, did you have
9 something?

10 MR. BOECKE: I would just -- a couple of
11 things. This particular attorney and these witnesses did
12 not participate in this proceeding in New York. Also, his
13 description of the interstate 500 service is totally
14 different. It's an interstate access service over which
15 this Commission doesn't have jurisdiction. It's also a
16 service that only accepts calls from Verizon customers. It
17 does not accept calls from CLECs or independents. So,
18 again, I don't see the relevance of the interstate internet
19 protocol routing service.

20 MR. SCHELTEMA: That's exactly one of
21 the points that Dr. Selwyn is prepared to address. I would
22 also indicate that Dr. Selwyn will be available tomorrow, so
23 that we won't be prejudicing the other parties' rights, in
24 light of this, this oral rejoinder, if you may.

1 CHAIRMAN GETZ: Okay. Let's continue
2 with the direct please.

3 MR. SCHELTEMA: Thank you.

4 BY MR. SCHELTEMA:

5 Q Dr. Selwyn.

6 A Thank you. First, I do have one correction to the
7 prefiled testimony. It's a minor one, but it is a
8 correction. At Page 1, line 8, I realize that this
9 testimony, having been filed so long ago, our address
10 has changed. And, the address should be -- showing
11 "One Washington Mall" should be changed to "Two Center
12 Plaza".

13 The issues that I wanted to raise
14 in addition, that are not addressed in my prefiled
15 testimony, relate to the status of -- the existence of
16 so-called 500 number service.

17 MR. COOLBROTH: Mr. Chairman, can I
18 renew our objection? I thought that the ruling of the Chair
19 was that we weren't to discuss this, and consider whether or
20 not it should be raised later, but that the witness's
21 testimony now was to be confined to the testimony as filed?

22 CHAIRMAN GETZ: That's correct.

23 THE WITNESS: Oh. I'm sorry. I
24 misunderstood.

1 CHAIRMAN GETZ: Okay. Thank you. If
2 you could proceed with summarizing your direct testimony as
3 it was filed.

4 CONTINUED BY THE WITNESS:

5 A My testimony addresses generally the issues of virtual
6 NXX routing, as used by competitive local exchange
7 carriers in New Hampshire and elsewhere. The VNXX
8 concept provides CLECs that do not have coverage of the
9 -- a network that provides coverage of an entire state
10 or an entire numbering plan area to offer services that
11 compete directly with services being provided by
12 incumbent local exchange carriers, specifically Foreign
13 Exchange Service. The Foreign Exchange Service that is
14 offered, and has traditionally been offered by
15 incumbent LECs, is, in a sense, a virtual service. In
16 that the number that is assigned to the customer is
17 rated in a location that is physically separated and
18 different from the location at which the service is
19 physically delivered. That enabled customers within
20 the local calling area of the assigned number to place
21 calls to the Foreign Exchange customer on a toll-free
22 or local basis. This service has existed for some
23 time. It is provided by incumbent LECs using network
24 facilities, and is typically subject to various types

1 of serving arrangements, including the use of
2 dedicated, leased facilities, as well as other
3 arrangements that do not involve dedicated facilities,
4 but rather utilize switched facilities in a virtual
5 dedicated facility type of arrangement.

6 What Global NAPs and other CLECs
7 that utilize so-called "virtual NXX codes" are
8 attempting to do is to provide comparable services to
9 their customers, to compete with the virtual Foreign
10 Exchange Services or virtual Exchange Services that are
11 being offered and have been offered by incumbent LECs.

12 With respect to the specific method
13 that is being used, as the Staff witness has indicated,
14 the point of delivery that a CLEC utilizes from the --
15 on its side of the point of interconnection to its
16 customer, does not affect in any way the work that the
17 incumbent LEC does in transporting traffic from its
18 point of origin to the ultimate destination. So, a
19 customer in, for example, Concord who dials a Concord
20 NXX code assigned to, for example, Global NAPs, Verizon
21 would be required to transport that call from Concord
22 to Manchester, where Global NAPs' point of
23 interconnection is located. And, at that point,
24 whether Global NAPs physically delivers that call to a

1 customer in Manchester or back in Concord, or anywhere
2 else in New Hampshire, does not in any way affect the
3 work that Verizon is required to do. The attempt by
4 the incumbent LECs to limit the ability of Global NAPs
5 to offer services that compete with their own Foreign
6 Exchange Service represents an attempt to protect their
7 own retail market and to impede competition, with
8 respect to the ability of CLECs that do not possess
9 extensive networks to offer these kinds of services.

10 For this reason, I believe that it
11 is entirely appropriate for virtual NXX assignments to
12 be permitted, and to prohibit them would, in effect,
13 serve only to protect the incumbent's monopoly
14 position, based on its network, which is not, in any
15 sense, the intent of the Telecommunications Act.

16 In that regard, there is one
17 statement that is made at Page 20 of the Verizon
18 supplemental testimony that misstates a position that I
19 articulated on behalf of Global NAPs at the technical
20 conference that is germane to this point, and that I
21 think needs to be addressed and corrected.

22 At Page 20, beginning at line 5,
23 the Witnesses Cort and Cole make the following
24 statement: "At least one CLEC, GNAPs, stated at one of

1 the untranscribed technical conferences held last year
2 in this docket that even if a new NPA were allocated
3 for non-geographic services it would be unable to
4 return any of the existing codes it currently holds and
5 uses for ISP- and eFax-bound traffic." That statement
6 is not correct, and that was not Global NAPs' position.

7 With respect to the use of a
8 specialized overlay, which, in fact, has now been
9 authorized by the FCC, Global NAPs would be prepared,
10 assuming that it can obtain the same NXX codes in the
11 specialized overlay to transfer all of its numbers to
12 the corresponding NXX code in the overlay and return
13 the 603 codes. That was the position I articulated at
14 the time, and that's still Global NAPs' position today.
15 So, in fact, if a specialized overlay can be adopted
16 for purposes of the kinds of services that are
17 described here, Global NAPs would return these codes
18 and they would become available in 603. And, on that
19 basis, I think that the viability, and contrary to the
20 opinions of Verizon witnesses, the viability of
21 specialized overlay is far greater than they -- as
22 assisting and protecting the 603 area code is far more
23 substantial than they would suggest in their attempt to
24 minimize its effectiveness.

1 MR. SCHELTEMA: Thank you, Dr. Selwyn.
2 Your Honor, I'd like to mark Dr. Selwyn's testimony as
3 "Exhibit 1".

4 BY MR. SCHELTEMA:

5 Q Has this been prepared by you or on your behalf, Dr.
6 Selwyn?

7 A Yes, it was.

8 Q Now, the last question. If I asked you these same
9 questions as found in your testimony, would your
10 response be the same, barring any changes or
11 modifications you were unable to make concerning the
12 ISP remand decision or Verizon's offering with respect
13 to 500 number series?

14 A They would.

15 MR. SCHELTEMA: Thank you. I'd like to
16 move that into the record.

17 CHAIRMAN GETZ: We'll mark Dr. Selwyn's
18 testimony for identification as "Exhibit Number 2".

19 (The document, as described, was
20 herewith marked as Exhibit 2 for
21 identification.)

22 MR. SCHELTEMA: As "2", okay. Dr.
23 Selwyn is available for cross.

24 CHAIRMAN GETZ: Have we agreed on an

1 order?

2 MR. COOLBROTH: Mr. Chairman, I wonder
3 if we might have so-called "friendly cross" come before what
4 I would consider our cross, which is probably adverse cross.
5 Otherwise, if the proponent of the witness does not redirect
6 the witness, we never get to cross on the new information
7 that comes in from the friendly cross-examiners. So that,
8 if the CLEC cross-examination could proceed, we'd just --
9 I'd ask the Commission to go in that order.

10 CHAIRMAN GETZ: Is there any objection
11 to that request?

12 MR. SCHELTEMA: No, your Honor. I'd
13 just like to note that it's rather unusual. I hope that
14 Verizon and the incumbent LECs don't get an opportunity to
15 have friendly cross.

16 CHAIRMAN GETZ: Okay. We will use the
17 same procedures in that context. Then, I guess we go to Ms.
18 Johnson?

19 MS. JOHNSON: I have no questions,
20 Commissioner.

21 CHAIRMAN GETZ: Ms. Parker?

22 MS. PARKER: No questions.

23 CHAIRMAN GETZ: Mr. Donahue?

24 MR. DONAHUE: Not necessarily friendly.

1 CHAIRMAN GETZ: Oh.

2 (Laughter.)

3 MR. DONAHUE: No questions anyway.

4 CHAIRMAN GETZ: Okay. We'll put you on
5 hold. Mr. Fleming?

6 MR. FLEMING: Yes. BayRing has no
7 questions for Dr. Selwyn.

8 CHAIRMAN GETZ: Okay. Ms. Ross?

9 MS. ROSS: I don't know whether I would
10 be considered --

11 CHAIRMAN GETZ: To be friendly.

12 MS. ROSS: -- friendly or unfriendly,
13 but I'm happy to go now, if you'd like.

14 CHAIRMAN GETZ: If you're prepared for
15 your cross, then, if you would proceed, that would be
16 helpful.

17 MS. ROSS: It's very brief.

18 CROSS-EXAMINATION

19 BY MS. ROSS:

20 Q Dr. Selwyn, have you reviewed the Staff testimony
21 submitted in this docket?

22 A Yes, I have.

23 Q Could you state for my benefit, since my constituents
24 are residential ratepayers, how a customer would know

1 that a call they were placing to what appeared to be a
2 local exchange number was to be treated either as a
3 local call or to be charged toll?

4 A Well, the normal method that is used is to have NXX
5 codes assigned to exchanges, and the exchanges are then
6 designated as part of the customer's local calling
7 area. Now, typically, the information pages of local
8 white pages directories will identify, and I believe --
9 I'm not familiar with the Independent Company
10 directories here, but I'm fairly certain that the
11 Verizon directory will identify for each originating
12 exchange, that is for each customer exchange, the NXX
13 codes that are dialable from that exchange, on a local
14 call basis. Now, that obviously, applied -- does not
15 help you with codes that are introduced subsequent to
16 the publication of the directory. But, as a general
17 matter, that information is available.

18 In addition, I'm not sure what your
19 dialing protocol is here. My recollection is that you
20 can dial all calls within the state on a seven digit
21 basis without a prefix. What a number of states have
22 done is to require historically a 1, prefix digit 1,
23 prior to the dialing of a toll call, when the
24 requirement for the mandatory - I'm sorry, for the

1 elimination of the NO1X format and adoption of the NXX
2 format for area codes came in. In order to use the 1
3 as a prefix digit, you'd have to also require that the
4 603 be dialed.

5 So, another way that this could be
6 accomplished to distinguish local from toll calls is to
7 require that, on toll calls, the customer dial one plus
8 the area code plus the seven digits. This requirement,
9 I might point out, exists in Massachusetts, for
10 precisely that purpose. In other words, you cannot
11 dial a call in Massachusetts without using the prefix
12 digit 1 -- a toll call in Massachusetts without dialing
13 the prefix digit 1. Whereas you can dial a local call
14 in Massachusetts by only dialing the area code. So,
15 those are two methods by which customers could
16 distinguish between local and toll. By looking it up
17 in their phone book, and if you were to adopt a dialing
18 protocol that made that distinction, forced that
19 distinction.

20 Q And, as things currently stand in New Hampshire, would
21 it be possible for a Global NAPs customer to mistakenly
22 dial a local call and be charged toll charges for it?

23 A Would a Global NAPs customer dial, on an outward call
24 basis, mistakenly thought -- it's my belief that Global

1 NAPs does not charge customers differently for what are
2 local versus what Verizon or other aisles would
3 consider toll calls in New Hampshire. In other words
4 that, for any outward services that Global NAPs may
5 offer, and I'm not sure they are offering any right now
6 in New Hampshire. But, if they are, it's my
7 understanding that its Global NAPs' intention to have
8 the entire state constitute a local calling area. So,
9 there would be no toll calls -- toll charges within New
10 Hampshire to any 603 number for any Global NAPs
11 customer.

12 CMSR. BROCKWAY: What about an inward
13 card from an ILEC customer to a Global NAPs number?

14 THE WITNESS: As I understand the
15 Commission's moratorium at the moment, if the Global NAPs
16 number is rated in an exchange that is local to the I
17 Company, the Independent Company customer, that that call is
18 carried as a local call. ISP calls are jurisdictionally
19 interstate as a result of the Commission's -- the FCC's
20 remand order. And, I do not believe that there is any
21 authority for any intrastate toll charges to apply to any
22 calls to ISPs. And, I'm speaking here whether the call is
23 from a Verizon exchange or an Independent Company exchange,
24 whether it's local or toll. A call from Colebrook to an ISP

1 number in Manchester is not subject to -- the state
2 jurisdiction is not subject to the state toll tariff. And,
3 therefore, there is no toll charge on that call.

4 CMSR. BROCKWAY: No intrastate toll.

5 THE WITNESS: No intrastate toll charge
6 on that call, and no interstate toll charge on that call,
7 because the FCC has designated it as "information access"
8 traffic, which is different than local or toll. So,
9 consequently, for ISP-bound traffic, this is a nonissue.
10 And, in effect, if the Independent Companies or Verizon are
11 assessing toll calls, toll charges, or even local message
12 charges on ISP-bound traffic, they, in my view, have no
13 authority to do that.

14 BY MS. ROSS:

15 Q Dr. Selwyn, could you tell me roughly what percentage
16 of the Global NAPs' New Hampshire customers are
17 ISP-bound callers and what percentage would be local
18 exchange callers?

19 A Now, I'm sorry, are you speaking of Global NAPs'
20 customers or other LEC customers calling Global NAPs?

21 Q Let's take it in pieces. First of all, for customers
22 who hold -- who are a Global NAPs customer, who have a
23 number that they access, which is a Global NAPs number,
24 what percentage of that group of customers would be

1 ISP-bound? In other words, they're using that number
2 for a dial-up principally, versus customers who might
3 be using that number for telephone service, if you have
4 a breakdown?

5 A I don't know. I don't know. You're talking about
6 global customers who originate calls, whether they
7 originate them to ISPs versus other non-ISP traffic?

8 Q Right.

9 A I don't know the answer. With respect to customers of
10 other LECs calling Global NAPs Global NAPs provides
11 service to ISPs, and also provides service to non-ISP
12 inward calling customers. And, I don't know the
13 breakdown.

14 MS. ROSS: Okay. I have no other
15 questions. Thank you.

16 CHAIRMAN GETZ: Thank you. Ms. Ms.
17 Cusack.

18 MS. CUSACK: Thank you, Mr. Chairman.
19 Mr. Selwyn, good morning. How are you?

20 THE WITNESS: Good morning.

21 BY MS. CUSACK:

22 Q Let me ask you. One of the things that I heard you
23 talking about was when you were talking about "point of
24 delivery". You said that "it doesn't matter where the

1 CLEC is, because this doesn't affect the work that the
2 ILEC does." Can you just expand on what the "work" the
3 ILEC does is?

4 A Sure. In -- can I refer you to the diagrams that are
5 at the back of my testimony? I think that would help
6 me respond to that question.

7 Q Sure.

8 A And, let me specifically refer you to Figures 3 and 4.
9 In Figure 3, we start with an ILEC customer, presumably
10 a Verizon customer in this case, in the Hanover Rate
11 Center, originating a call to a Global NAPs number
12 rated in Hanover, but physically delivered by Verizon
13 to the Global NAPs' point of interconnection in
14 Manchester. And, the dashed line on this diagram
15 represents the transport that would be provided by
16 Verizon, and the solid line represents transport that
17 would be provided by Global NAPs. So, in this case, we
18 have a call from a Verizon customer in Hanover to a
19 Global NAPs customer physically located in Hanover,
20 where Verizon transports the call to the point of
21 interconnection and Global NAPs transports the call
22 back to Hanover. And, this is rated as a local call,
23 and it is -- it is not a virtual call or a Foreign
24 Exchange call in any sense or term.

1 If you now go to Figure 4, the only
2 difference between Figures 3 and 4 is that, in Figure
3 4, Global NAPs, the CLEC, would be delivering the
4 Hanover originated call to its customer physically
5 located in Manchester. So, the difference between
6 these two diagrams only affects the work that Global
7 NAPs does. The work that Verizon does, in both of
8 these calls, is identical. That is, it picks up the
9 call and Hanover transports it to the point of
10 interconnection and hands it off at that point of
11 interconnection to Global NAPs. There is no difference
12 in Verizon's work in these two examples. The only
13 difference is in Global NAPs' work in these two
14 examples.

15 Q So, from a Verizon's standpoint or the ILEC standpoint,
16 there is no economic justification for treating those
17 calls differently?

18 A Well, the justification, if there is one, that they
19 seem to be advancing relates to the alleged loss of
20 toll revenue that would exist in the Figure 4 case,
21 vis-a-vis the Figure 3 case. That would be -- That
22 might be considered an opportunity cost to Verizon.
23 If, in fact, this call does divert toll revenue, and,
24 by the way, that is not at all clear that it does, and

1 I can explain why I say that. But, if this call does
2 divert toll revenue, then, in effect, by allowing
3 Global NAPs to terminate the call in Manchester,
4 Verizon sustains an opportunity -- incurs an
5 opportunity cost in the form of the lost toll revenue.
6 The FCC rules expressly prohibit incumbent LECs from
7 recovery of opportunity costs as part of their
8 interconnection arrangements. So, to the extent that
9 Verizon is attempting to apply different rules, with
10 respect to this traffic versus the Figure 3 example,
11 that would represent a recovery of an opportunity cost
12 and consequently is prohibited.

13 CMSR. BROCKWAY: Before you go further,
14 Ms. Cusack, you said "it's not clear that Figure 4 does
15 divert toll revenue". Is that because of this rule that
16 you're talking about, about the bar on recovering
17 opportunity costs? Or is there some other reason?

18 THE WITNESS: Yes. No, there is another
19 reason. Let us assume that this is an ISP-bound call, and,
20 for the sake of argument, although I don't think it would be
21 applicable under the current regime, since the remand order
22 was issued, but, for the sake of argument, let's assume
23 that, if virtual NXXs were not permitted, and the customer
24 in Hanover were required to dial a Manchester number to

1 access an ISP, that a toll charge would apply. I would -- I
2 would argue that that call, as a practical matter, would
3 generally not be made. In other words, that it is unlikely
4 that the customer in Hanover would dial a Manchester number
5 and pay a toll charge to reach an ISP. Consequently, in
6 that example, the call would, if the ISP did not offer
7 local, a local access number, that call would not be placed.
8 Now, you know, in the current situation, for example, if
9 Global NAPs and other ISP -- and other CLECs were not
10 permitted to use virtual NXX service, and therefore could
11 not offer a local number in Hanover, then Hanover dial-up
12 ISP customers would be able to access the Internet only
13 through Verizon's 500 number, and that is a local call.

14 So, subsequently, the effect here is not to
15 divert toll traffic that would otherwise take place, but
16 rather to permit CLECs to compete with services that Verizon
17 is itself providing to its own affiliate. So, not only do
18 you have a situation where, by allowing virtual NXX, by
19 allowing this Figure 4 example to take place, not only do
20 you put CLECs in the game competing with Verizon, but you
21 also put ISPs, that otherwise would not be able to provide
22 service in Hanover, provide local numbers in Hanover to
23 compete with Verizon's affiliate ISP. So, you increase
24 competition both in telephone services, as well as in

1 Internet services. If you shut down virtual NXX, you also
2 shut down Internet competition in the state, and you feed
3 traffic to Verizon.

4 CMSR. BROCKWAY: Thank you.

5 BY MS. CUSACK:

6 Q Mr. Selwyn, let me ask you something that you answered
7 Ms. Ross on her cross-examination of you. How -- It
8 was referenced to the ISP calls. How does a caller's
9 carrier know that a call is ISP-bound, for the purpose
10 of rating that call?

11 A Well, that's an interesting question. If -- The FCC
12 itself has indicated that there's no way to know.
13 There's nothing -- the call is a voice-type call, it is
14 a call using a modem, is a voice-type call. It is
15 originated over the public switched network. It is
16 transported over the public switched network to the
17 CLEC point of interconnection in a way that does not
18 differ as between any other voice call. And, so, there
19 is no physical way to tell these apart.

20 By the way, there's also no
21 difference from the perspective of the CLEC in the work
22 that the CLEC has to do to terminate a call, whether
23 it's an ISP-bound call or a voice call. In fact, that
24 was an explicit finding of the FCC in the remand order.

1 So, these calls are the same, and there is no basis to
2 distinguish them.

3 Q Well, would you advocate, perhaps, to distinguish them,
4 that there be a new numbering system or a new rating
5 scheme that would perhaps help in being able to
6 distinguish those calls?

7 A Well, you know, let me say at the outset that I don't
8 think the call should be distinguished, because they
9 are the same service. That having been said, and, by
10 the way, I believe that there is a very strong
11 likelihood that the FCC's position on this will be
12 reversed, as it was once already. That said, if, in
13 fact, these calls are to be -- are to be distinguished
14 for regulatory purposes, if this artificial distinction
15 is to be made for regulatory purposes, then some sort
16 of numbering solution would be appropriate. One
17 possible approach, it was something I discussed in my
18 testimony, is the concept of a Wide Area Rate Center.
19 For example, you could assign a single NXX code to all
20 ISP calls. That code would be assigned. It would be a
21 603 number. It would be dialable from anywhere in the
22 state. It would be rated as a non-toll call, from
23 anywhere in the state, and it would be used --
24 administratively designated as to be used solely for

1 ISP traffic. That would not only reduce the potential
2 impact on numbering resources, but it would also
3 eliminate any confusion on the part of customers. So,
4 for example, if you just picked a particular available
5 NXX code, and designated it as an ISP code, and to be
6 treated as such, no matter where -- from where the call
7 originated, that would solve the problem.

8 Q But, in starting the answer to that question, you said
9 that you believe the FCC's order would be overturned?
10 Based on what?

11 A Well, the FCC's order relies heavily on its assertion
12 of jurisdiction. And, its assertion of jurisdiction
13 relies heavily on the so-called "one call" theory. In
14 other words, it is the FCC's position that the call --
15 that the jurisdiction of the call is determined based
16 upon the point of origin, for example, a number in -- a
17 customer in New Hampshire, and a point of termination
18 which would be, for example, a Web site someplace on
19 the Internet, probably not in New Hampshire. And,
20 under the traditional so-called "contamination"
21 principle, if traffic cannot be jurisdictionally
22 determined to be as between interstate and intrastate,
23 which would be the case here, because you don't know
24 where, physically, a given Web site host happens to be

1 located. There's nothing in the Web address that would
2 indicate the geography of the site. As long as at
3 least ten percent of the mixed traffic is interstate,
4 then, under this theory, the interstate jurisdiction
5 applies.

6 Now, in an order issued about two
7 years ago in the D.C. Court of Appeals, the court was
8 skeptical about this "two call" theory, and suggested
9 that it did not see the distinction between a call
10 terminating in an ISP versus a call terminating at any
11 other business, including other
12 telecommunications-intensive businesses. I mean, you
13 now have actions by the FCC declaring, for example,
14 Internet access to be an information service, in the
15 case of cable, and an NPRM, which would do the same
16 thing with respect to Internet, the Internet services
17 provided over the telephone network. And, so, now you
18 have a situation where the Internet itself is not being
19 even considered a telecommunications service. And,
20 yet, for jurisdictional purposes, its interstate nature
21 is being used as some sort of theory under which what
22 is inherently an intrastate call can be
23 jurisdictionally captured by the FCC. I don't think
24 that that theory ever had merit. I still don't think

1 it has merit. And, the court already found once that
2 it basically didn't have any merit, and I think the
3 court will probably find that again. So, for now, the
4 jurisdiction is with the FCC, as of the date of the
5 remand order. But I don't think that that is
6 necessarily the final solution to this story.

7 Q Let me just follow up a little bit on the "not knowing
8 where -- whether the call is local or going to an ISP
9 that's in another state". There's no way for the
10 telephone carrier of the calling party to know where
11 the call is physically terminating, is there?

12 A You mean, if it's an ISP call, whether it's terminating
13 on the Internet or, I mean, on a Web site in New
14 Hampshire versus a Web site out of New Hampshire? Is
15 that your question?

16 Q Well, I mean, that's part of it. But there's just no
17 way for the carrier of the calling party to know where
18 that call will physically terminate?

19 A As long as the -- there is no separate NXX code, that's
20 correct.

21 Q Okay.

22 A But you could, as I've just suggested, you could adopt
23 an ISP-specific NXX code.

24 Q Okay. Let me switch gears and talk to you a little bit

1 about what you were -- when you were discussing Foreign
2 Exchange. What is a dial tone used for?

3 A What is a dial tone used for?

4 Q Sure.

5 A I'm not sure I understand the question. I mean, it's
6 used to tell the -- signal the customer that he can
7 start dialing.

8 Q Right. So, it allows the customer to make a phone
9 call. You pick up the phone, the dial tone is there?

10 A Right.

11 Q And, can a customer get dial tone for toll service, if
12 he doesn't have local service?

13 A Yes.

14 Q How would that customer be able to get dial tone
15 without a local service?

16 A Well, I'm not sure this is even being offered anymore,
17 but there used to be a service known as "Wide Area
18 Telecommunications Service", or "WATS", which you would
19 purchase. It was a "toll only" service, and you could
20 not make local calls on it. You would get dial tone
21 and could only dial calls within the designated
22 coverage area of the WATS service.

23 Today, there are services that are
24 purchased directly from interexchange carriers using

1 some type of dedicated access facility between the
2 customer and the IXC that permit the customer to access
3 services offered by the IXC, which typically are toll
4 services, not local.

5 Q The local company is not providing that dial tone,
6 though?

7 A In the case of WATS, the local company actually was
8 providing the dial tone.

9 Q But WATS doesn't exist any longer.

10 A WATS generally doesn't exist any longer.

11 Q Okay.

12 A I'm not, by the way, sure that that's absolutely the
13 case. The tariffs may still actually be around, I just
14 haven't looked lately. As far as I know, it's not --
15 it's certainly not widely used.

16 Q And, that's -- it's pre-divestiture anyway?

17 A No, it's not pre-divestiture. It actually persisted
18 well into the early 1990s.

19 Q But the IXC, if the dial tone was coming from, for
20 toll, was coming from -- it should come from the IXC,
21 not necessarily the local company, today, as we sit
22 here?

23 A Today, if you buy a "toll only" -- a "toll only"
24 service from an IXC, then the IXC is the one who would

1 provide dial tone, yes.

2 Q Okay. So, then, how does an ILEC typically provide
3 dial tone to provide the local service?

4 A It provides dial tone out of a Class 5 switch
5 typically, which, typically, is located near the
6 customer or, more specifically, the customer is
7 typically located in a geographic area designated as
8 the serving area for that switch.

9 Q So, typically, in the exchange?

10 A No, not necessarily. In fact, I noticed on one of the
11 definitions in the glossary that were submitted this
12 morning, I think it was one of the ones that was --
13 there was a correction made, that the central office
14 could be outside of the exchange.

15 CMSR. BROCKWAY: Ms. Cusack, I've lost
16 track of your question. Can you go back? The original
17 question was "how does the IXC" --

18 MS. CUSACK: This question was "how does
19 the ILEC provide dial tone for local service?"

20 CMSR. BROCKWAY: Okay.

21 CONTINUED BY THE WITNESS:

22 A In other words, you could physically have a central
23 office switch located at a place that was some distance
24 from the customer, and not -- perhaps not even in the

1 same exchange as the customer or perhaps not even in
2 the same local calling area as the customer, and still
3 provide dial tone to that customer, as the normal
4 serving arrangement.

5 BY MS. CUSACK:

6 Q When you say "the normal serving arrangement", that's
7 not necessarily, though, the typical serving
8 arrangement?

9 A Well, actually, I'm trying to remember. I actually
10 prepared an analysis of this, and I think distributed
11 some material at one of the workshops. And, my
12 recollection is that there were, in fact, a number of
13 instances in New Hampshire where the central office was
14 physically located in an exchange other than the
15 customer's location. And, in some cases, the central
16 office -- the exchange where the CO is located and the
17 customer's location were not within the same local
18 calling area. That's to the best of my recollection.
19 I could be wrong, but I believe that to be the case.

20 Q In New Hampshire, do you know how many exchanges are
21 set up like that? Where you're not drawing dial tone
22 from --

23 A Well, my recollection is that Verizon, for example, has
24 something like of the order of 15 or 20 central office

1 switches in the state, and it's got something in excess
2 of 100 exchanges in the state. So, I think that would
3 actually be, in a lot of ways, a more common
4 arrangement than the other.

5 Q That would be the remote, right, you're --

6 A Well, they may be used -- they may be served by a
7 remote. An exchange may be served, I mean,
8 historically, there was a central office in each
9 exchange. And, then, these were consolidated, and the
10 wire center for the exchange, which is where the
11 outside plant, the subscriber loops physically
12 terminate, would be retained, but a remote switch would
13 be provided that would then connect to a host switch in
14 some distant location by an umbilical type of
15 communications link.

16 It is also possible, however, that
17 exchanges could be consolidated without the use of
18 remotes. As, for example, the -- instead of having a
19 remote switch in a relatively small exchange, the
20 subscriber lines could simply be cross connected to a
21 fiber optic cable that just goes directly to the host
22 switch.

23 Q Well, let's -- you used the word "historically", and
24 I'm going to grasp on that word and say that,

1 historically, then, there are customers that are
2 physically connected to the switch in the local
3 exchange. You would agree with that statement?

4 A Well, I would agree that historically there were.

5 Q And, historically, there are customers?

6 A Well, there certainly are cases here, a lot of cases
7 where the exchange and -- where the central office is
8 located in the exchange in which a customer is located.
9 But there are also a lot where that is not the case.

10 Q Let's switch now to talk about how CLECs provision the
11 local dial tone. Can you tell me what CLECs do?

12 A Well, typically, CLECs will serve a very wide
13 geographic area with one switch. Sometimes they will
14 serve an entire LATA with one switch. Sometimes they
15 will serve several LATAs with one switch. Sometimes
16 several states with one switch. The reason for this is
17 that the economics of switching versus transport have
18 changed very dramatically over the last ten years, with
19 transport becoming extremely cheap, extremely
20 inexpensive, relative to switching, which has also
21 become less expensive. And, given the relatively small
22 volume of customers that a typical CLEC would normally
23 be expected to serve, it is far more cost-effective for
24 the CLEC to maintain one switching facility and use

1 outside plant to carry, in effect, long loops to the
2 various locations where it provides service.

3 Q Let's use Global NAPs right now as an example. Global
4 NAPs has a switch in Manchester.

5 A Correct.

6 Q Where would a customer of Global NAPs, who is
7 physically located in Concord, draw its dial tone from?

8 A If Global NAPs has a customer in Concord, the customer
9 would draw dial tone from the Manchester switch.

10 Q It's then the Global NAPs facility that connects the
11 customer, the Concord customer, to the switch?

12 A Yes. If you'd go back to my Figure 3, which is using
13 Hanover, but it's the same idea, that the solid line
14 between the Global NAP switch and the customer in
15 Hanover would be a Global NAPs facility, that Hanover
16 customer would be drawing dial tone from the switch in
17 Manchester.

18 Q Right. Okay. Is it your testimony then that a CLEC or
19 CLEC can't compete with an ILEC who offers Foreign
20 Exchange, without having VNXX?

21 A It's my testimony that inward services and outward
22 services are two different things. In the example in
23 Figure 3, Global NAPs is providing service to a
24 customer physically located in Hanover, who can both

1 originate and terminate calls using the Global NAPs
2 telephone. Now, Global NAPs currently does not offer
3 that, although it may in the future; other CLECs do.
4 And, that would be an example of -- the Figure 3
5 example is not a Foreign Exchange example, because, in
6 Figure 3, the physical location of the customer and the
7 NXX code assigned to that customer are the same. In
8 the case of Figure 4, we're dealing with an inward
9 service. Foreign Exchange is used both for outward and
10 -- can be used both for outward and inward calling.
11 When used for outward calling, the Foreign Exchange
12 Service provides the caller with the local calling area
13 associated with the exchange from which the Foreign
14 Exchange dial tone is obtained. In the case -- In case
15 of, for example, Global NAPs, since Global NAPs, for
16 its outward services, will be offering statewide local
17 calling, it doesn't actually matter what NXX code is
18 assigned to the customer, because no matter where the
19 customer is in New Hampshire, when Global NAPs offers
20 this service, the customer will be able to call the
21 entire state.

22 On the inward side, however, that's
23 the area, that is the aspect of Foreign Exchange
24 service with which Global NAPs is currently competing.

1 If a Verizon customer in New Hampshire -- in Hanover
2 has a Manchester -- gets a Manchester dial tone,
3 Foreign Exchange Service from Verizon, customers in the
4 Hanover/Lebanon local calling area will be able to call
5 that Manchester customer by dialing its Hanover number.
6 Okay? And, that is exactly the service that Global
7 NAPs is offering on a so-called "virtual" basis. And,
8 that is where Global NAPs is competing with Verizon.

9 Q And, typically, those customers have both inward and
10 outward calling?

11 A Well, they may or they may not. It depends what their
12 needs are. If the purpose of having the Foreign
13 Exchange line, for example, is to allow, let's say, you
14 have a large retail store in Manchester, and who wants
15 to attract customers in Nashua and in Concord and in
16 other parts of southern New Hampshire. They might
17 utilize FX service to provide local, a local call
18 presence, in Concord, for example, so that people can
19 call them. They would not necessarily even use that
20 service to place calls outbound, because they perhaps
21 want to keep the line free so they could be receiving
22 inbound calls. So, you can't state categorically that
23 every customer who opts for Foreign Exchange Service is
24 using it on a bidirectional basis. And, I think many

1 are not.

2 Q But --

3 CHAIRMAN GETZ: I believe that Attorney
4 Cusack is asking, and I think she's done this a few times,
5 she's asking a question whether something is generally true
6 or not. And, I don't think we're getting a response to
7 those questions, but the exceptions are being pointed out.
8 Is that, could you tell us, in response to her questions,
9 when something is generally true or not, and then move on to
10 the -- whether there are exceptions, and how typical those
11 exceptions are, I think would be most helpful to me in
12 understanding these issues.

13 THE WITNESS: Well, I mean, as to this
14 point, it is generally true that, in the example in my
15 Figure 3, the customer in -- I'm sorry, let's take my
16 example. Well, actually, none of my examples would apply,
17 because I'm talking about a Verizon customer. If you have a
18 Verizon customer physically located in Hanover, that draws
19 dial tone from Manchester, that customer does have the
20 ability to both originate and terminate calls, as if that
21 customer is located in Hanover.

22 That said, I understood her question to mean
23 what -- to go to what the customers were necessarily doing
24 with the service. And, I believe my answer is accurate.

1 That, for many customers, it will depend on the purpose and
2 what their goal is. And, I think, inasmuch as toll calls
3 are generally fairly inexpensive these days and there are
4 alternate discount toll services, that somebody who was
5 buying mileage for Foreign Exchange to Verizon would tend to
6 be using that primarily for incoming calls, not for
7 outgoing.

8 CHAIRMAN GETZ: Okay. Thank you, Ms.
9 Cusack.

10 BY MS. CUSACK:

11 Q Let me ask you this way. That you have a customer in
12 Manchester, who has Foreign Exchange in Hanover.

13 A Okay.

14 Q Can that customer, who is dialing from Manchester, is
15 that call to Hanover then local?

16 A If the -- If the Manchester customer accesses that
17 Hanover dial tone and places a local call, places a
18 call to another Hanover number, it will be rated as
19 local, yes.

20 Q And, that is the typical business for someone that is a
21 customer in Manchester, that is a CLEC or a Global NAPs
22 customer?

23 A No, I can't agree with that.

24 Q Let me ask you this. Would you agree then that Foreign

1 Exchange is an extension of local exchange service?

2 A I'm not sure I understand, that you're asking me to
3 commit to a particular definition, and the words
4 "extension of", I'm not sure I understand exactly what
5 you have in mind. I mean, it is -- it is a way for a
6 customer in one location to have local service, that
7 looks and feels like it's in another location, in that
8 sense I suppose it's an extension. But it's not an
9 extension in the way we might think of other uses of
10 that term in describing telephone service.

11 Q I guess what I'm trying to get, local service is
12 two-way calling, inward and outward?

13 A Yes.

14 Q Okay. What I guess I'm trying to get at is, if you
15 know of where an ILEC, any ILEC, that is providing
16 Foreign Exchange Service in an exchange where they have
17 no physically located customers?

18 A Okay. An ILEC -- you mean where the dial tone is --
19 comes from an exchange where there are no -- where the
20 ILEC itself has no customers?

21 Q That's right.

22 A I doubt that that happens. I think it's an
23 irrelevance, but I doubt that it happens.

24 MS. CUSACK: Thank you, Dr. Selwyn.

1 CHAIRMAN GETZ: Let's take a ten minute
2 break.

3 (Recess taken at 11:30 a.m. and
4 reconvened at 11:48 a.m.)

5 CMSR. GEIGER: The Chairman has some
6 other responsibilities that he must attend to at least for
7 the next few minutes, so he's asked me to preside in his
8 absence. And, Ms. Cusack, I want to confirm that you
9 finished with your cross-examination, is that correct?

10 MS. CUSACK: Just one moment please.

11 (Short pause)

12 MS. CUSACK: We're finished. Thank you.

13 CMSR. GEIGER: And, it's my
14 understanding that we've completed what we've characterized
15 as "friendly cross". So, then, I would move either to Mr.
16 Boecke or Mr. Coolbroth. Have you discussed between
17 yourselves as to who would prefer to go first?

18 MR. COOLBROTH: We're prepared to go
19 forward now, Commissioner Geiger.

20 CMSR. GEIGER: Okay. Please do so, Mr.
21 Coolbroth. And, if you want to stay seated, that's fine,
22 but you need to turn your microphone on please.

23 MR. COOLBROTH: Is it on?

24 CMSR. GEIGER: I don't believe it is.

1 (Short pause.)

2 BY MR. COOLBROTH:

3 Q Good morning, Dr. Selwyn.

4 A Good morning.

5 Q Now, with regard to the issue of ISP-bound traffic
6 being preempted by the FCC, I just want to make it
7 clear, does Global NAPs support the FCC on decision on
8 remand?

9 A Global NAPs agrees with Verizon's interpretation of the
10 FCC's decision. I'm quite certain that Global NAPs
11 does not support the FCC's -- does not agree with the
12 FCC's conclusion, for the reason that I stated earlier.

13 Q Now, if you and Global NAPs are right then, and the
14 FCC's decision is overturned, then all of these issues
15 are very much before us, is that true?

16 A Yes. Along with recip. comp. and the rest, yes.

17 Q I'm trying to understand your interpretation of the
18 FCC's order. For a call that is toll dialed from
19 Colebrook to a Manchester, New Hampshire ISP, so just a
20 Verizon customer using Verizon toll services to an ISP,
21 who has modems through Verizon. That would normally be
22 a toll call, isn't that true?

23 A Now, are we talking about as it exists now, under the
24 FCC preemption, or as it might exist when, as and if

1 the FCC preemption is overturned?

2 Q Well, maybe if you could do both for us.

3 A Well, the FCC, in the remand order, established that
4 Internet access traffic is Section 251(g) traffic, it
5 is not local. It defined it as information access
6 traffic, and effectively making it neither local nor
7 toll. And, it maintained, continues to maintain the
8 access charge exemption associated with ISP-bound
9 traffic. So, on that basis, I do not believe that any
10 intrastate tariff currently on file applies to any
11 ISP-bound traffic.

12 In other words that, from and after
13 the date of the FCC -- the effective date of the FCC
14 remand order, the application of an intrastate tariff
15 to jurisdictionally interstate traffic is precluded.
16 And, therefore, the customer in Colebrook or Hanover or
17 wherever, who is dialing a Manchester ISP number, that
18 is an ISP-bound call. It is neither local nor toll.

19 MS. ROSS: Could I raise -- I'm not sure
20 this is an objection just yet, but I'm puzzled right now.
21 Because Dr. Selwyn's testimony was filed in January of 2001.
22 The order came out in April of 2001. I thought that we
23 agreed earlier that he would not be supplementing his
24 testimony, unless and until the parties had agreed on the

1 scope of it. And, therefore, I didn't ask any questions of
2 Dr. Selwyn on the -- on the FCC order. Nor was I expecting
3 that the independents, who I believe first raised the
4 objection, would. And, I have no problem with those
5 questions and would like to ask some myself. But I just
6 need to understand what the parameters are for us going
7 forward. If maybe Mr. Coolbroth could help me or the
8 Commission could help me.

9 MR. COOLBROTH: Dr. Selwyn testified on
10 direct about the reach of the FCC's order, and he testified
11 on direct that the entire issue of Internet-bound traffic
12 was preempted by the FCC. I'm trying to just explore what
13 he means by that, in terms of which kinds of calls he thinks
14 are covered and which ones aren't.

15 CMSR. GEIGER: Just a moment.

16 (Short pause.)

17 CMSR. GEIGER: Yes.

18 MR. SCHELTEMA: I just wanted to state
19 that, although some of what Dr. Selwyn is doing is
20 speculative, based on what the ultimate order may or may not
21 be on appeal, that Global NAPs is fully, well, desiring,
22 frankly, to expand the record and fill it with information
23 that would enable you all to meet and reach a better
24 decision.

1 CMSR. GEIGER: I think --

2 MR. SCHELTEMA: So, it's consistent with
3 our position this morning.

4 CMSR. GEIGER: I think that that is
5 consistent with what I recall the Chair saying this morning,
6 and that would be that Dr. Selwyn would confine -- at least
7 he did confine his direct to his prefiled testimony. And,
8 then, it seems to me, after the break, we'll be in a
9 position to advise the parties about how we want to handle
10 any supplemental information that Global NAPs wishes to
11 provide, and then how to afford all of the other parties the
12 opportunity to respond to that.

13 But, with respect to the matter at hand
14 raised by Ms. Ross, it seems to me that, to the extent Mr.
15 Coolbroth is asking questions that have elicited some
16 information, at this point, and since Mr. Coolbroth was the
17 one who interposed the objection initially, if he feels
18 comfortable exploring this area of inquiry, even though it
19 may not have been filed in direct, I'm going to allow him to
20 pursue that. But, then again, we will entertain from the
21 parties requests that they may have for further exploration,
22 either tomorrow or in written comments.

23 MR. SCHELTEMA: Thank you, your Honor.

24 CMSR. GEIGER: Mr. Coolbroth.

1 THE WITNESS: I don't believe I had
2 finished my response.

3 MR. COOLBROTH: Could we have the
4 stenographer read back the last question?

5 CHAIRMAN GETZ: Sure.

6 (Whereupon the Court Reporter read back
7 the last question asked.)

8 BY THE WITNESS:

9 A It's my recollection that the question asked me to
10 address both the current regime and then also what
11 might happen if the FCC is ultimately reversed. And, I
12 had completed the first part, but had not initiated the
13 second part.

14 CMSR. BROCKWAY: If I could ask,
15 because, since we're on what the question was, I did not
16 hear fully what Mr. Coolbroth asked, and my notes are "call
17 toll dialed from Colebrook to Manchester ISP, Verizon
18 customer using Verizon services." I don't know what that
19 means. If that helps Mr. Coolbroth to remember his
20 question, it would be helpful for me to get the picture in
21 my mind of what we're talking about.

22 BY MR. COOLBROTH:

23 Q Dr. Selwyn, let me try it again. Suppose a Verizon
24 customer --

1 CMSR. BROCKWAY: I still can't hear you,
2 Mr. Coolbroth. I'm sorry.

3 BY MR. COOLBROTH:

4 Q Suppose a Verizon customer, located in Colebrook, New
5 Hampshire, dials a Verizon's Manchester exchange, let's
6 say it dials a 622 number to Verizon's Manchester
7 exchange, and, at that number, is connected with an
8 ISP. Now, could you describe for the Commission the
9 situation, as you believe it is now, after the FCC's
10 order on remand. And, secondly, describe for the
11 Commission what the result would be if the FCC were to
12 be overturned with respect to its assertion of
13 jurisdiction over those calls.

14 A And, I believe I've already responded to the first part
15 of the question, which is the situation as it exists
16 now, which is that there is no applicable intrastate
17 tariff that would apply to that call, because the call
18 has been declared to be jurisdictionally interstate.

19 Q So, just to clarify, so that the customer in Colebrook
20 would dial that Manchester 622 number, and, in your
21 judgment, there should be no toll charge for that call,
22 is that right?

23 A That's correct. In fact, I think there is no tariff on
24 file anywhere, state or interstate, right now that

1 covers that call.

2 Q Well, if there's no tariff on file, can the customer
3 dial that number?

4 A Well, let me back up. The call has been designated as
5 an information access call, and, therefore, it is
6 neither local nor toll. So, --

7 Q Are there any terms and conditions describing that
8 service by which the customer is unable to dial that
9 number, in any tariff anywhere?

10 A I don't know. It's not -- But the bottom line is that
11 the FCC has said "it's not local and it's not toll."

12 CMSR. GEIGER: Excuse me, can I just ask
13 Mr. -- sort of a different spin on what Mr. Coolbroth just
14 asked. I think in your testimony you indicated that the
15 call would be designated an inter -- intrastate
16 Internet-bound call, or words to that effect. Are you
17 saying that there is a way for Verizon to, under its
18 existing tariff, to characterize that particular call as a
19 call to the Internet?

20 THE WITNESS: Well, I think it is
21 required to do so under the -- under the FCC order. The FCC
22 has classified those calls as "information access" calls,
23 and has stated that they are not subject to state
24 jurisdiction. It has preempted the jurisdiction.

1 Therefore, I don't see how you can have an intrastate toll
2 charge apply to a call that has been declared to not be
3 intrastate.

4 CMSR. GEIGER: So, Verizon must somehow
5 designate calls to a Manchester NXX that serves an ISP
6 differently from a voice call from Colebrook to Manchester?

7 THE WITNESS: That's how I read the FCC
8 order. And, I think Verizon probably needs to file an FCC
9 tariff covering that service.

10 CMSR. GEIGER: Okay. Thank you for that
11 clarification. I apologize, Mr. Coolbroth.

12 THE WITNESS: Now, with respect to what
13 happens if the FCC is reversed --

14 CMSR. BROCKWAY: Before you get to that,
15 --

16 THE WITNESS: Okay.

17 CMSR. BROCKWAY: -- I apologize for
18 interrupting.

19 THE WITNESS: That's all right.

20 CMSR. BROCKWAY: Do you happen to know
21 how Verizon now rates and charges, if at all, for such a
22 call?

23 THE WITNESS: It would be my belief that
24 Verizon is currently charging intrastate toll rates for that

1 call.

2 CMSR. BROCKWAY: I'm sorry. Thank you.

3 THE WITNESS: And, you know, I might
4 point out, Commissioner Brockway, that, when Verizon
5 provides ISP-type services to its own affiliate using the
6 500 number arrangement, it purchases that service out of an
7 interstate tariff, even though 500 type arrangements are
8 also tariffed at the state level. Testimony in New York
9 from Verizon, where the -- it was that, although there is an
10 Internet protocol --

11 MR. COOLBROTH: Maybe it please the
12 Commission, I'm not sure there's a question pending that
13 this witness is responding to.

14 MR. BOECKE: I'd also object to his
15 answer, in that it's assuming a lot of facts that are not in
16 evidence. There is no 500 intrastate tariff in New
17 Hampshire.

18 THE WITNESS: And, that's my point.

19 CHAIRMAN GETZ: Well, I believe he was
20 trying to take the opportunity to follow up on Commissioner
21 Brockway's question. But I do think it is going into the
22 area that we had reserved judgment on. So, if we could
23 return to your cross-examination, Mr. Coolbroth.

24 BY MR. COOLBROTH:

1 Q Dr. Selwyn, assuming that your position is adopted by
2 the Court of Appeals, and the FCC is overturned. And,
3 the FCC's jurisdiction over that call from Colebrook --
4 over that ISP call dialed from Colebrook to Manchester,
5 and the FCC's jurisdiction is taken away and it's once
6 again a state jurisdiction, how would that call be
7 rated?

8 CMSR. BROCKWAY: How would it be what?

9 MR. COOLBROTH: Rated.

10 BY THE WITNESS:

11 A Well, if the call is jurisdictionally intrastate, and
12 unless this Commission were to establish some alternate
13 arrangement, that call would then be rated as an
14 intrastate toll call, since Colebrook and Manchester
15 are not in the same local calling area.

16 BY MR. COOLBROTH:

17 Q Now, I'd like to ask, suppose for the same call from
18 Colebrook to the Manchester 622 number, to reach an ISP
19 customer of Verizon, suppose that the presubscribed
20 interexchange carrier for the Colebrook customer is
21 AT&T. Could you describe the treatment of that call
22 and the intercarrier compensation that would be
23 involved?

24 A That's a very interesting question. Because, since

1 information access traffic is expressly exempt from
2 access charges, then I don't believe that an access
3 charge would apply to that call. And, if AT&T carried
4 the call, it would have to come under the FCC's recip.
5 comp. rules applicable to information access traffic
6 and not to intrastate toll traffic.

7 Q And, so, in that instance, the end-user in Colebrook
8 would not be charged for the toll call, is that right?

9 A Well, it would be up to AT&T to decide how it was going
10 to charge for that call. But Verizon would not be
11 permitted to charge access -- to impose access charges
12 on AT&T for that call, because it is jurisdictionally
13 interstate and exempt from access charges.

14 Q Now, if the call is an information access call, how is
15 it that AT&T would be able to impose a toll charge for
16 that call?

17 A Well, AT&T -- if AT&T is required to file tariffs in
18 New Hampshire for intrastate calls, well, first of all,
19 if it's jurisdictionally interstate, as I suggest it is
20 under the FCC order, then the AT&T intrastate toll
21 tariff would not be applicable in any event. And, it
22 would be up to AT&T to determine how it was going to
23 treat that interstate call placed between two points,
24 two NXX codes in New Hampshire.

1 Q And, Verizon would not be able to charge AT&T
2 originating access?

3 A That would be my interpretation of the FCC's order.
4 And, there's nothing in the FCC's order that in any way
5 says that the designation of "information access"
6 traffic is limited to what the ILEC happens to
7 characterize as its local calling area.

8 Q And, Verizon would not be able to charge AT&T
9 terminating access for that call?

10 A Same answer.

11 Q But AT&T could charge the Colebrook customer a toll
12 charge for that call?

13 A Well, AT&T can charge the customer for the call, if
14 AT&T carries the call.

15 Q So, Verizon's toll customers basically have statewide
16 toll-free calling to ISPs, as long as they are
17 presubscribed to Verizon for their intra-LATA toll?

18 A Well, you raise an interesting question, and that is
19 whether or not the information access call that is
20 handled by Verizon is actually subject to the
21 inter-LATA PIC -- the intra-LATA PIC. You know, now
22 that you've put it that way, I'm not sure it is.
23 Again, this is one of the -- the FCC order, which I
24 would characterize as largely results driven, in

1 applying jurisdiction in order to deal with this issue,
2 really did not think through all the ramifications of
3 it. And, the point you just raised is yet another
4 ramification of what the FCC has done. The bottom --
5 The point is that AT&T or any IXC, in that situation,
6 if they take that traffic, would not be able to apply
7 their intrastate tariff, if it's not a jurisdictionally
8 intrastate call.

9 Q I'm trying to understand. So, the answer to this would
10 be for Verizon to be able to distinguish, in processing
11 toll calls, to -- and turning toll calls over to the
12 presubscribed interexchange carrier, which of those
13 dialed numbers are going to an ISP and which is not, is
14 that correct?

15 A I suppose. I mean, you know, the FCC created an
16 impossible situation. And, the fact that it may be
17 difficult to implement only underscores the problems
18 with what the FCC has done. But that's what the FCC
19 has done. It doesn't alter what the FCC has done, the
20 fact that it has created difficulties, of course, it's
21 created difficulties.

22 Q Now, all you --

23 CMSR. BROCKWAY: Mr. Coolbroth, I
24 apologize. I'm sure that you can recover your train of

1 thought, if you'll permit me, but I've got an elephant in my
2 mental living room.

3 BY CMSR. BROCKWAY:

4 Q And, it's back up at the question of if AT&T carries
5 the call. Dr. Selwyn, you said that "AT&T can charge,
6 if it carries the call." I don't remember a response
7 to an earlier answer how AT&T can impose a toll charge.
8 I think you've established that it can't be an
9 intrastate charge. What kind of charge could it be?

10 A I don't know. It can't be intrastate. Whether or not
11 it could be covered within AT&T's interstate tariff is
12 a question I'm not prepared to answer. AT&T may itself
13 have a problem with this and may need to file an
14 information access call tariff as well.

15 Q Is there -- So, there is such an animal as an
16 "information access call tariff" that the FCC has
17 allowed to exist?

18 A Well, Verizon, for example, has something called an
19 "ISP call origination charge" that they recently filed
20 in their FCC access tariff. So, apparently, they think
21 they can do it.

22 CMSR. BROCKWAY: Thank you. Thank you
23 for allowing me to interject.

24 BY MR. COOLBROTH:

1 Q Now, Dr. Selwyn, all this difficulty arises only if you
2 construe the FCC's order on remand as applying to toll
3 dialed traffic, as well as local dialed traffic, isn't
4 that true?

5 A Well, --

6 Q If you could answer "yes" or "no", and then explain,
7 that would be fine.

8 A Yes. But I think that construction is appropriate.
9 And, I'm sorry, your Honor, I have to go to the 500
10 number point, because it's germane to that answer.
11 Verizon is itself using an interstate tariff to provide
12 ISP-bound traffic access, local dial access throughout
13 the State of New Hampshire. That customer in Colebrook
14 dials a 500 number. It's rated as a local call. There
15 are no access charges associated with it. And, the
16 call is delivered to a -- transported over the Verizon
17 network and delivered to a PRI hub located in southern
18 New Hampshire, either in Manchester or in Nashua. And,
19 that's done out of the interstate tariff. And, if
20 Verizon is going to be able to do that, if it's allowed
21 to carry a call from Colebrook to Manchester as a local
22 call, under the 500 interstate tariff, then it seems to
23 me that my interpretation is right on the money.

24 Q Now, Verizon is going through all the trouble of

1 offering that 500 service, even though, as you say,
2 that they can offer -- that they're, in fact, offering
3 or required to offer statewide, toll-free seven-digit
4 dialed access Internet service providers?

5 A Well, they have chosen, for whatever reason, not to
6 proceed in that direction. Their solution has been,
7 obviously, you know, self-serving, in that they have
8 offered this 500 service primarily to their own
9 affiliate. But, nevertheless, the fact that they are
10 offering a local call access transported over toll
11 routes within the State of New Hampshire, under an
12 interstate tariff, subject to local rating, I believe
13 absolutely establishes the validity of my
14 interpretation. The Verizon clearly is interpreting it
15 that way. If the FCC order were to be reversed, I do
16 not believe that Verizon could continue to purchase --
17 Verizon Online could continue to purchase 500 service
18 out of the interstate tariff. Because this Commission
19 would once again get jurisdiction, and would -- and
20 those calls would be treated as intrastate calls. So,
21 the fact that Verizon is doing that, and they have
22 confirmed in testimony, sworn testimony in New York,
23 that that is what they're doing, that, and I believe we
24 also heard it here today, that the fact that they're

1 doing that means that that is their interpretation of
2 the FCC's jurisdiction. And, for them to say that
3 CLECs or other ISPs that do not subscribe to Verizon's
4 500 service can't get the comparable benefit is simply
5 an invalid position.

6 Q So, basically, if Verizon says it's right, it must be
7 right? Is that your testimony?

8 A Far be it for me to ever agree to something like that.
9 But all I'm saying is that it would be -- it would
10 certainly be discriminatory practice for Verizon to
11 interpret the FCC order in one way for itself, and in a
12 totally different way for its rivals. And, in this
13 case, the interpretation is not only to the extent that
14 Verizon is interpreting this differently for other than
15 Verizon, it's not just its CLEC competitors, but also
16 its ISP competitors. Verizon is both an ILEC and an
17 Internet service provider. And, the 500 arrangement
18 it's established for itself benefits its ISP affiliate.
19 It means its ISP affiliate can offer services in
20 Colebrook on a local call basis, that other ISPs, who
21 do not use 500 type calling services, would not be able
22 to do.

23 Q Now, Dr. Selwyn, this is not the first time you've been
24 retained by Global NAPs to assist in a proceeding

1 before this Commission, isn't that right?

2 A I have been involved in this proceeding for Global
3 NAPs. I'm trying to recall if I've been involved in
4 others.

5 Q Well, you were also involved in the Commission's
6 proceeding in docket DT 00-001, relating to eFax. Do
7 you recall that?

8 A Yes. Well, I thought that was somehow consolidated
9 into this. But, if it's different, than you're
10 correct.

11 Q And, that controversy arose, did it not, because, in
12 its arrangements with eFax, Global NAPs was providing
13 New Hampshire telephone numbers for use by people
14 basically located throughout the country is that right?

15 A Yes.

16 Q And, basically, eFax was providing a service, whereby
17 it would subscribe to telephone numbers through Global
18 NAPs, and receive faxes at those numbers, and e-mail
19 the faxes to its eFax customers, is that right?

20 A Yes.

21 Q And, eFax was selling two services that were described
22 to this commission. Isn't that right? There was a
23 Free service and a Plus service, do you recall those?

24 A Yes.

1 Q And, the difference between the two services was
2 whether the telephone number would be assigned randomly
3 or whether the customer would be able to select the
4 local calling area and pay for that that selection,
5 isn't that true?

6 A Yes.

7 Q So, that eFax customers, who were insensitive to toll
8 charges incurred by the senders of faxes could choose
9 the free service and have a telephone number assigned
10 random, is that true?

11 A That's correct.

12 Q And the Global NAPs' point of interconnection with
13 Verizon was and is in Manchester, New Hampshire?

14 A With respect to 603 numbers, yes.

15 Q Okay. And, the eFax server was in Quincy,
16 Massachusetts. Do you recall that?

17 A At that time, the Global NAPs switch was also in Quincy
18 at that time. The Global NAPs now has a switch in
19 Manchester. And, I do not know the location of the
20 eFax server. It may well also be in Manchester at this
21 time, probably is.

22 Q Now if a Global NAPs Concord, New Hampshire telephone
23 number were randomly assigned to an eFax customer
24 located in Los Angeles. A person located in Seattle

1 could send a fax to the recipient in Los Angeles by
2 dialing a Concord's New Hampshire telephone unbundle.
3 Is that correct?

4 A Correct. And, that would be an interstate toll call
5 placed by that Seattle customer, and subject to access
6 charges at both ends of the call.

7 Q And, this would be even though the sender, the
8 recipient, eFax, and Global NAPs did not have a
9 physical location or facilities in Concord, New
10 Hampshire, is that right?

11 A At that time, that was the case. As I said, Global
12 NAPs currently has a switch in Manchester, and I
13 believe, although I'm not certain, that eFax probably
14 has a server in Manchester as well.

15 Q But I said Concord New Hampshire, not Manchester.

16 A I'm sorry. The Concord --

17 Q So, let me --

18 A You may have misheard your question then. I'm sorry.

19 Q Okay. This call would be treated as a toll call to
20 Concord, New Hampshire, even though the sender, the
21 recipient, eFax and Global NAPs did not have any
22 physical location or facilities in Concord, New
23 Hampshire, is that right?

24 A Yes.

1 Q So, the eFax Free service is basically a lottery of
2 telephone numbers, including New Hampshire telephone
3 numbers?

4 A I have no idea what you mean by that.

5 Q Well, it's a random assignment of telephone numbers
6 from New Hampshire, isn't that true?

7 A I wouldn't characterize it as "random". Global NAPs,
8 at the time, was being assigned NXX blocks of 10,000.
9 There was no such thing as "number pooling". And,
10 Global NAPs was using relatively few numbers out of
11 those codes, and had an opportunity to increase the
12 utilization of those codes by offering the unified
13 messaging services to eFax. It did so, without
14 requesting any additional codes, and using codes that
15 had already been assigned. EFax was then given a stock
16 of numbers and was assigning those numbers to its
17 customers.

18 Q And, Global NAPs took a position that that was an
19 efficient use of telephone numbers, is that right?

20 A Well, inasmuch as the numbers had no other use, they
21 could not be -- there was no ability at the time for
22 Global NAPs to make those numbers available for any
23 other purpose. They either would have been unused or
24 used for this purpose. So, therefore, in effect, it

1 made sense for Global NAPs to be providing numbers out
2 of codes that otherwise would have stayed empty, rather
3 than have eFax go and find carriers that would have to
4 have requested NXX codes in order for eFax to get
5 numbers. So, yes, it was an efficient use of numbers
6 that had already been assigned to Global NAPs.

7 Q And, did the advent of thousands block pooling enable
8 Global NAPs to return all of the thousands blocks,
9 other than those necessary for the few numbers that it
10 needed in New Hampshire?

11 A Well, by the time thousands block pooling -- thousands
12 block pooling came along, Global NAPs had assigned
13 these numbers. As I indicated earlier, however, Global
14 NAPs expressed at the technical conference last year,
15 and I again stated this morning, that Global NAPs would
16 be perfectly willing to move those numbers out of the
17 603 area code and into an overlay code, if -- and
18 offered to do so back last summer and offers to do so
19 again today. And, the offer is genuine. And, with the
20 FCC now having adopted a change in its policy
21 permitting specialized overlays, I think it's a
22 feasible solution.

23 Q Now, with the eFax Free service, the eFax customer does
24 not pay eFax for the telephone number, is that right?

1 A That was certainly the case at the time. I've been
2 getting emails from eFax where they certainly try --
3 look like they're trying to migrate customers onto paid
4 services, as are many other people who are in business,
5 having businesses that are related to the Internet.
6 So, I don't know what their present policy is. But, at
7 the time, yes, they were giving away free numbers.

8 Q And, presumably, they're a for-profit company, is that
9 right? As far as you know, they're not a charitable
10 organization?

11 A They're a for-profit company. As to whether or not
12 they're making a profit, I have no idea. There are a
13 lot of for-profit companies associated with the
14 Internet that are not.

15 Q Do you think anybody was paying them to take these
16 telephone numbers?

17 A I have no idea. I imagine some people were.

18 Q Do you know who that might be?

19 A Yes. It might be somebody who wants to -- whose
20 community of interest is oriented toward a particular
21 local area. For example, a user in Manchester, who
22 does business primarily in Manchester, and is using
23 eFax instead of having an ordinary fax machine.

24 Q Well, that would be eFax Plus, right? That's a

1 different service?

2 A I'm sorry, then I missed your question.

3 Q Okay. I'm just, for the eFax Free service, --

4 A Yes.

5 Q -- is somebody paying eFax to take that telephone
6 number and apply it to an eFax customer?

7 A As far as I know, no. That's why it's called "free".

8 Q Well, would Global NAPs be paying them?

9 A Is Global NAPs paying eFax?

10 Q Yes.

11 A For what?

12 Q Well, presumably, doesn't Global NAPs charge
13 terminating access for that Concord, New Hampshire
14 telephone number in my hypothetical?

15 A Global NAPs charges terminating access to the
16 interexchange carrier that carries the call. And, it
17 receives money from the interexchange carrier.

18 Q Right. And, if it, in order to receive that
19 terminating access, doesn't it have to have business?

20 A If your question is, "is Global NAPs making payments to
21 eFax, so that eFax will utilize Global NAPs' services,
22 so that Global NAPs is getting terminating access?"

23 Q Yes.

24 A I have no idea. I don't believe so. I've never been

1 led to believe that they are. You should inquire of
2 Global NAPs directly. But, to the best of my
3 knowledge, that is not Global NAPs' policy.

4 Q And, moving on, if that same Los Angeles eFax customer
5 had reason to expect a lot of faxes to originate in
6 Concord, New Hampshire, then the eFax customer might
7 subscribe to the EFax Plus service, is that right?

8 A Yes.

9 Q And, in that instance, the eFax customer would be able
10 to specify that the number be within the Concord local
11 calling area?

12 A Yes.

13 Q And, a fax originated by somebody in the Concord local
14 calling area to that eFax customer in Los Angeles would
15 be rated as a local call?

16 A Yes.

17 Q Now, do you take a position that this eFax service is
18 Internet-bound or is this not an Internet-bound
19 service?

20 A To the best of my knowledge, it has never been
21 characterized as "Internet-bound service". EFax is not
22 an Internet service provider. They are an application
23 provider. So, you know, I can't answer the question as
24 to what the legal status of that is. To the best of my

1 knowledge, it has never been viewed as an
2 Internet-bound service.

3 Q Do you think, if the person who initiates the fax is a
4 Verizon customer in the Concord calling area, that
5 Global NAPs charges reciprocal compensation associated
6 with that fax?

7 A I believe they do.

8 Q And, in any event, that is because this call that goes
9 from -- this fax that goes from Concord, New Hampshire
10 to Los Angeles, California is a local call, using these
11 facilities, in your mind?

12 A The call goes from the originating caller to the eFax
13 server, which, as I said, I believe is now located
14 physically in New Hampshire, and is transformed through
15 a variety of processes into an image file that is then
16 e-mailed. And, so, there is a lot of manipulation of
17 the data before it is put in a form that can be subject
18 to e-mail. And that, therefore, I think, even under
19 the FCC's theory, that call is terminating at the eFax
20 server and not beyond it.

21 Q You don't think that there's really much local
22 community of interest between Concord, New Hampshire
23 and Los Angeles, California, do you?

24 A Only at election time.

1 Q But, certainly, Concord, New Hampshire children don't
2 have any major need to call public schools in Los
3 Angeles, do you think?

4 A I wouldn't know.

5 Q Do you think they might?

6 A I wouldn't know. Probably not.

7 Q That Concord, New Hampshire -- residents of the
8 Concord, New Hampshire local calling area would need to
9 be able to call medical practitioners in -- general
10 medical practitioners in Los Angeles, California?

11 A Sometimes.

12 Q Often?

13 A Probably not.

14 Q Pharmacies in Los Angeles?

15 A I'll stipulate that there probably are not too many
16 cases of that type of thing.

17 Q Will you stipulate to the same for banks, central
18 business areas, and Los Angeles ISPs?

19 CHAIRMAN GETZ: Mr. Coolbroth, it's
20 12:30. Where are we in your cross-examination? Is it time
21 for a break? Do you have --

22 MR. COOLBROTH: It would be a time for a
23 break, Mr. Chairman.

24 CHAIRMAN GETZ: Okay. We will take the

1 lunch break and resume at 1:45. Thank you.

2 (Lunch recess taken at 12:30 p.m. and
3 reconvened at 1:55 p.m.)

4 CHAIRMAN GETZ: Before we resume with
5 Mr. Coolbroth's cross-examination, I'd like to address the
6 -- I guess what I can call the "500 number" issue raised by
7 Global NAPs and Dr. Selwyn's direct testimony. I would
8 construe Global NAPs's position as moving to submit
9 supplemental direct testimony, and we grant that motion, but
10 would like to do it in a way that gives the parties an
11 opportunity to respond or to prepare for cross-examination.

12 If I understand correctly, Mr. Scheltema,
13 there are several pages that Dr. Selwyn has of testimony
14 that he presented in New York, is that correct?

15 MR. SCHELTEMA: Yes, sir.

16 CHAIRMAN GETZ: And, he'd like to
17 introduce that as an exhibit to supplement his testimony, is
18 that correct?

19 MR. SCHELTEMA: Yes. And, we're willing
20 to do that. We're willing to just let the matter go as it
21 stands, which is to use the exchanges that were provided on
22 the record between the parties and the questions that have
23 come up this morning.

24 CHAIRMAN GETZ: Well, I think it's

1 certainly, to the extent that questions in response to
2 cross-examination fairly implicate the 500 number issue,
3 that that's appropriate. But I would like to avoid further
4 objections on the matter and would like to get the matter
5 more directly addressed. So, I would propose that you make
6 available by the end of the day to the rest of the parties
7 copies of that testimony that Dr. Selwyn has presented in
8 New York, and that the parties would be given the
9 opportunity at the end of the day tomorrow to cross-examine
10 Dr. Selwyn on that, on that material. And, again, of
11 course, at that time, to the extent that, or afterwards, in
12 closing, that the parties want to argue about the weight
13 that we should accord that testimony, then we'll hear those
14 arguments.

15 MR. SCHELTEMA: If it pleases, your
16 Honor, I can distribute that material now.

17 CHAIRMAN GETZ: That would be fine. Do
18 we have any commentary by any of the other parties on that
19 procedure?

20 MR. COOLBROTH: No, Mr. Chairman.

21 CHAIRMAN GETZ: Okay. Hearing none, as
22 soon as we get this material distributed, then if you could
23 continue with your cross-examination, Mr. Coolbroth. Well,
24 why don't --

1 MR. OSGOOD: Mr. Chairman, do we want to
2 label this?

3 CHAIRMAN GETZ: Why don't we just mark
4 this right now for identification as Exhibit Number --

5 MR. OSGOOD: 2A? Or do you want it as a
6 separate number?

7 CHAIRMAN GETZ: Let's give it just a
8 separate number. Exhibit number --

9 MR. OSGOOD: Okay. Three.

10 CHAIRMAN GETZ: -- 3.

11 (The document, as described, was
12 herewith marked as Exhibit 3 for
13 identification.)

14 MR. SCHELTEMA: Your Honor, I'd like to
15 mark this as "Exhibit 4". These are data responses from
16 Verizon with respect to the 500 number series. I have I
17 think either one or two more pieces.

18 (The document, as described, was
19 herewith marked as Exhibit 4 for
20 identification.)

21 MR. SCHELTEMA: The last exhibit, which
22 I'll mark as Exhibit -- what are we on, 5 now?

23 MR. OSGOOD: Yes.

24 MR. SCHELTEMA: Is a screen print from

1 Verizon's Web page, concerning the 500 number series in New
2 Hampshire, in the Colebrook area. I didn't realize how
3 popular the hearing was going to be today, so I didn't make
4 adequate copies. But I'll get those to the parties at the
5 end of the day.

6 CHAIRMAN GETZ: Okay. Thank you.

7 (The document, as described, was
8 herewith marked as Exhibit 5 for
9 identification.)

10 CMSR. BROCKWAY: If there's anyone
11 present who can put together, at least for my own benefit, a
12 -- trace how it was that Verizon got a 500 number, to whom
13 did Verizon apply to get this number? Is there an FCC order
14 allowing this series of numbers to be used and so forth?
15 That would be useful to me.

16 MR. SCHELTEMA: Your Honor, I'm sorry,
17 is that a request of Dr. Selwyn about Neustar or is that
18 about Verizon, to which Verizon --

19 CMSR. BROCKWAY: I can't hear you. I'm
20 sorry.

21 MR. SCHELTEMA: Is that a request to Dr.
22 Selwyn, concerning some kind of Neustar number application
23 or is that to Verizon about its interstate tariff?

24 CMSR. BROCKWAY: It has to do with

1 Neustar as the North American Numbering Plan Administrator,
2 yes. And, where it is written in the LERG that such a
3 number can be given out, and tracing that back to the FCC.
4 But it doesn't have to be Dr. Selwyn and it doesn't have to
5 be now. I'm just curious about it.

6 THE WITNESS: I can answer some, but not
7 all of those questions, if you want.

8 CMSR. BROCKWAY: If this is something
9 that somebody can advise me about over the break, let's not
10 take time during the hearing today. And, if it needs
11 further material on the record, we can do it tomorrow.

12 MR. SCHELTEMA: Thank you.

13 CHAIRMAN GETZ: Mr. Coolbroth.

14 MR. COOLBROTH: Thank you, Mr. Chairman.

15 BY MR. COOLBROTH:

16 Q Dr. Selwyn, I believe that before the break I had asked
17 a series of questions relating to community of interest
18 between Concord, New Hampshire and Los Angeles,
19 California. And, I think I had, my last question, and
20 I'm not sure was answered, was whether Concord, New
21 Hampshire residents, in large numbers, would be
22 expected to call pharmacies, banks, central business
23 areas and ISPs located in Los Angeles, California?

24 A And, I believe that my answer -- I believe it was not

1 answered, but my answer is "no", I wouldn't expect
2 that.

3 Q Now, without using eFax, if a Verizon customer located
4 in Concord, New Hampshire wanted to send a fax to Los
5 Angeles on the public switched network, presumably that
6 would be a toll call?

7 A That certainly would be the ordinary way of doing it,
8 yes.

9 Q And, Verizon would charge originating access for that
10 call?

11 A Yes.

12 Q And, Verizon would not pay reciprocal compensation for
13 that call, is that right?

14 A That's correct.

15 Q I'm going to change my hypothetical a bit, and ask you
16 to assume that eFax has a customer located in
17 Colebrook, New Hampshire, who receives faxes in
18 Colebrook, New Hampshire. And, do you have that in
19 mind?

20 A Yes.

21 Q And, I'm going to ask you to accept subject to check
22 that Colebrook is about 140 miles from Concord, would
23 you accept that subject to check?

24 A Yes.

1 Q And, I'm going to ask you to assume that that eFax
2 customer in Colebrook receives a large number of faxes
3 from a Verizon customer located in Concord, New
4 Hampshire. And that, previously, those faxes had been
5 sent directly by dialing the customer's Colebrook fax
6 machines, and that these were toll calls. Do you have
7 that hypothetical in mind?

8 A Yes.

9 Q And, I'm going to ask you to assume that the Concord
10 customer's presubscribed interexchange carrier was
11 AT&T. Now, suppose that now the EFax Plus customer
12 receives that same high volume of faxes through eFax,
13 with a Concord Verizon customer dialing a Global NAPs
14 Concord telephone number. Do you have that
15 hypothetical in mind?

16 A Yes.

17 Q In my "before" scenario, before -- my "before eFax"
18 scenario, Verizon would have been charging originating
19 access for those fax calls?

20 A Presumably, yes.

21 Q And, would have been charging terminating access for
22 those fax calls?

23 A In Colebrook, yes.

24 Q And, that would produce revenue for Verizon,

1 presumably, is that true?

2 A Yes.

3 Q And, that revenue would be regulated revenue?

4 Above-the-line revenue, if you will?

5 A Yes, it would be above-the-line revenue.

6 Q And, Verizon would not have been paying reciprocal
7 compensation on that call, is that right? This is a
8 fax.

9 A I'm just -- just to make sure I understand the
10 scenario. The Verizon customer in Concord dials a
11 Global NAPs --

12 Q No. This is the "before eFax" scenario.

13 A No. Oh. Okay.

14 Q So, this is --

15 A He just dials -- He just dials a Colebrook number, and
16 the call is carried by AT&T. No, AT&T would be paying
17 Verizon recip. -- access charges at both ends of the
18 call.

19 Q And, Verizon would not be charging reciprocal
20 compensation or would not be paying reciprocal
21 compensation associated with that call?

22 A No. No.

23 Q Now, in my "after" scenario, assuming the use of eFax,
24 Verizon would not be charging access to an

1 interexchange carrier, is that right?

2 A That's correct.

3 Q So, that revenue source would not be there, is that
4 right?

5 A It would be just as if the Colebrook customer had a
6 Foreign Exchange line with a Concord telephone number.

7 Q So, there would be no access revenue, is that right?

8 A The same as with -- if Verizon was a Foreign Exchange
9 Service provider in that situation, yes.

10 Q Well, I mean, it is -- we'll go there in a second. But
11 my question is that there would be no access revenue
12 received by Verizon, is that right?

13 A Yes.

14 Q And, again, access is above-the-line revenue, so that
15 above-the-line revenue would be lost, is that right?

16 A Well, to the extent that the call would otherwise have
17 been placed.

18 Q And, I asked you to assume that in my hypothetical.

19 A Yes. Well, to the extent that that is valid, to the
20 extent that the Concord customer would have placed the
21 toll call to Colebrook in the first place, which is by
22 no means a certainty, then the revenue would have been
23 lost. But, if we assign some probability to that, then
24 only a portion of the revenue would have been lost.

1 Q Well, how do you know that, Dr. Selwyn? Do know my
2 customer in my hypothetical? Do you know my situation?
3 I asked you to assume it. Is that a problem for you?

4 A It's not a problem, but it still requires the
5 qualification. Because your assumption is -- your
6 assumption implies that it happens -- that 100 percent
7 of those calls would be placed.

8 Q Did I say that?

9 A And, all I'm saying -- Well, you asked me to assume a
10 hypothetical. And, I guess my answer is, "I can't
11 assume a hypothetical that doesn't make sense." And,
12 it is a fact that less than 100 percent of those calls
13 would be placed, therefore, less than 100 percent of
14 the revenue would be lost. But, to the extent that the
15 call would have been placed, the revenue would be lost.

16 Q Before eFax, people didn't send faxes by use of the
17 toll network?

18 A Oh, I'm sure they did. I didn't say "zero percent". I
19 said "less than 100 percent". The fact is that, if the
20 customer went to the trouble -- if the Colebrook
21 customer went to the trouble of getting a Concord
22 number, as opposed to having the Colebrook number, it
23 is perhaps because he or she intended to encourage
24 people to send faxes, people in the Concord area to

1 send faxes, which might not otherwise have occurred if
2 those Concord customers were required to place a toll
3 call.

4 Q Now, in my "after" scenario, with the presence of eFax,
5 Verizon would be charging reciprocal compensation,
6 isn't that right?

7 A For calls originated in the Concord local calling area,
8 yes. Just as would an FX line provided by, if the
9 Colebrook customer had FX service from Verizon, with --
10 or, from any other carrier with a Concord number.

11 Q And, I'll say that -- I want to correct my question.
12 Verizon would be paying reciprocal compensation in the
13 eFax situation, isn't that right?

14 A Yes.

15 Q And, the reciprocal compensation is also an
16 above-the-line item?

17 A Yes.

18 Q So, it's an above-the-line cost to Verizon, is that
19 right?

20 A Well, you know, you -- I'm trying to recall, and I
21 don't recall whether Verizon in New Hampshire is
22 subject to a price cap type regulation or rate of
23 return regulation. If it's subject to rate of return
24 regulation, I would agree with the "above-the-line"

1 characterization. If it's subject to price caps, then
2 the effect is, in a sense, below the line.

3 Q Now, for my next few hypothetical questions, I'm going
4 to ask you to assume that Global NAPs is also in the
5 toll business. And, to assume that the Concord Verizon
6 customer was PIC'd to Global NAPs, that is that the
7 presubscribed interexchange carrier is Global NAPs,
8 instead of AT&T. Do you have that hypothetical?

9 A So, we have a Concord Verizon customer, who is
10 purchasing interexchange service only from Global NAPs.

11 Q No. I was assuming that they would be purchasing both
12 local and interexchange service from Global NAPs,
13 instead of simply local service.

14 A Okay. I believe I explained to you earlier that it is
15 Global NAPs' intention on outward services to offer
16 statewide local calling. So, Global NAPs would not be
17 offering inter -- would not be an interexchange carrier
18 in New Hampshire.

19 Q All right. Well, let me just assume then that the
20 Concord -- let me assume that the number dialed is a
21 number that is a Concord number of AT&T, rather than
22 Global NAPs. And, that Global NAPs provides to the
23 holder of that number both local and interexchange
24 services. Do you have that mind?

1 A No, I don't understand your hypothetical, I'm sorry.
2 You'll have to spell it out a little more carefully.
3 With have a Global NAPs dial tone customer?

4 Q No. I've changed that, because you've indicated that
5 Global NAPs does not engage in the interexchange
6 business. So, I'm trying to understand --

7 A Okay. Well, just -- I've just lost the thread of your
8 example. So, if you could start over, maybe I could
9 understand it. You've changed it several times, so --

10 Q Let me try it this way. You have described a cost
11 incurred by Verizon in the scenario of -- involving a
12 virtual NXX number versus a call to a CLEC number,
13 where the called party is physically located in the
14 calling area of the called number, is that right?

15 A We have a Verizon customer, who, on the one hand, calls
16 a Verizon telephone, and, on the other hand, calls a
17 CLEC telephone in the same -- with an NXX code in the
18 local calling area, is that the question?

19 Q Well, why don't -- could you turn your attention to
20 your Figure 3 --

21 A Sure.

22 Q -- attached to your testimony? And, see on your Figure
23 3, where you have "CLEC switch", could that also be
24 "interexchange point of presence"? Is that also

1 possible? If the -- If, instead of a CLEC at that
2 location, it was an interexchange carrier?

3 A If your question is, "could an interexchange carrier
4 maintain a point of presence in Manchester, and, from
5 Manchester, serve, for example, Hanover or the rest of
6 the state?" The answer is "of course".

7 Q Okay. And, in that example, would the items on your
8 table, relating to telephone "Verizon Central Office",
9 "Verizon Tandem", and transit to the point of presence
10 be the same?

11 A Probably, yes. I say "probably", because the
12 interexchange carrier may use alternate access
13 arrangements. They may use dedicated transport instead
14 of common transport, for example. This --

15 Q Dr. Selwyn, you've put your paper --

16 A I'm sorry. The interexchange carrier may use dedicated
17 transport instead of common transport. This example
18 assumes common transport.

19 Q But, assuming that the interexchange carrier uses
20 common transport, it would be the same?

21 A It would be, yes, certainly similar.

22 Q Now, Dr. Selwyn, did your prefiled testimony propose
23 that the ability to use -- or, CLECs to use virtual
24 NXXs should depend on whether or not the CLEC has at

1 least one customer physically located in the rate
2 center associated with the NXX?

3 A No.

4 Q Do you propose that now?

5 A No.

6 Q Do the costs and revenues associated with a VNXX call
7 vary based on whether the CLEC has another single
8 customer physically located within the rate center to
9 which the NXX is assigned?

10 A No.

11 Q Do the ILEC's costs and revenues associated with calls
12 to CLECs --

13 A I'm sorry, I may have misheard the previous question.
14 Could you read -- based on the way you started the
15 second one. Can you reread that previous one. I want
16 to make sure I heard it correctly.

17 MR. COOLBROTH: Can we have it read
18 back?

19 (Whereupon the Court Reporter read back
20 the last question asked.)

21 THE WITNESS: I think that's enough. I
22 did mishear it.

23 BY MR. COOLBROTH:

24 Q And, that was to the CLEC's cost.

1 A Okay. And, I think, as the reporter read it back, it
2 was just "do the costs". And, if you meant "do the
3 CLEC's costs", the answer would be "yes", because, if
4 the CLEC were required to establish a -- some
5 relationship with a customer with one single customer
6 merely as an entry fee, so to speak, to offer VNXX
7 service. And, obviously, any cost the CLEC would incur
8 in creating that arrangement would, obviously, impact
9 its cost of serving that exchange. In other words, if,
10 in order to have a VNXX in Colebrook, a CLEC needed to,
11 for example, find somebody that wanted local service in
12 Colebrook, the CLEC would be required to, for example,
13 get a facility from Verizon, lease a facility as a UNE,
14 U-N-E, from Verizon and provide service to that
15 customer, undoubtedly, at a loss, because the CLEC
16 would be required to pay for that facility all the way
17 back to Manchester. So, it would impact the CLEC's
18 costs for no particular reason. And, now, I believe
19 you were starting to ask me about the ILEC's cost, is
20 that correct?

21 Q No, I'd like to stay with the CLEC's cost for a moment
22 then.

23 A Sure.

24 Q You have identified the costs associated with serving

1 that other single customer, isn't that right?

2 A Correct.

3 Q Now, apart from that cost, would the CLEC's costs and
4 revenues associated with a separate VNXX call to a
5 customer who's not that customer vary based on whether
6 the CLEC has that single customer in the rate center or
7 not?

8 A No, apart from those costs, the costs would be the
9 same. But that cost would represent an entry fee to
10 doing business in that exchange.

11 Q Now, do the ILEC's costs and revenues associated with
12 calls to CLEC VNXX numbers vary based on whether the
13 CLEC has one customer physically located within the
14 rate center to which the NXX is assigned?

15 A No, they don't.

16 Q In your opinion, is it economically efficient to
17 require a CLEC to have one customer be physically
18 located within each rate center in order to use VNXXs?

19 A No, it's not. It's not only economically inefficient,
20 it's anti-competitive.

21 Q Now, Dr. Selwyn, I'd like to turn your attention to
22 rate centers generally. And, from having reviewed your
23 testimony and some other materials that you've made
24 available in the past to us, I draw the conclusion that

1 you're not a proponent of rate centers?

2 A Well, what I have said in the past, and what I
3 discussed at some length at one of the conferences in
4 this docket, is that rate centers are, in the modern
5 context, an anachronism. That they serve a purpose in
6 the past, when the costs of providing telephone service
7 were impacted by distance. But, because distance has,
8 for all practical purposes, ceased to be a cost driver,
9 rate centers are simply an anachronism of the monopoly
10 local exchange carrier era, that would not be
11 sustainable were the market actually competitive.
12 Because the market would drive the prices down to cost
13 and costs do not vary by distance.

14 So, certainly, this Commission
15 should not be attempting to preserve a construct that
16 is not economic and does not have an economic basis at
17 this point. It's purely -- preserving rate centers is
18 simply to preserve the ability of incumbents to
19 maintain monopoly prices in certain segments of the
20 market.

21 Q And, so, your preference and your recommendation would
22 be to do away with the local call/toll call distinction
23 entirely?

24 A Certainly within a LATA, absolutely.

1 Q Now, you testified -- your testimony discusses the
2 potential for Wide Area Rate Centers in New York, is
3 that right?

4 A Yes.

5 Q Has New York implemented your Wide Area Rate Center
6 proposal?

7 A Well, actually, New York addressed and adopted an order
8 calling for the implementation of Wide Area Rate
9 Centers in a case that I was not even involved in. So
10 that, in fact, the action in New York was not based on
11 my recommendation, but it was based upon a case -- some
12 other case. But I was, at roughly the same time,
13 making a similar recommendation here in New Hampshire,
14 although I didn't call it "Wide Area Rate Center", I
15 happen to think that's a very good descriptive title
16 and have adopted it. But the New York Commission
17 ordered its implementation, ordered that workshops be
18 commenced, and, eventually, those workshops,
19 apparently, as a result of the workshops, the proposal
20 was abandoned.

21 Q And, according to your testimony, the use of virtual
22 NXXs -- I'm sorry, virtual NXXs is a second-best
23 approach, in your mind, in comparison to a Wide Area
24 Rate Center?

1 A Oh, sure. If we had a Wide Area Rate Center, the only
2 reason that, for example, Global NAPs had obtained as
3 many NXXs as it did in New Hampshire was for the
4 purpose of offering local call availability to its
5 customers on a statewide basis. If, instead of having
6 to go through the drill of establishing all of these
7 different NXXs codes, because of the small local
8 calling areas, Verizon -- Global NAPs were able to
9 define a single statewide NXX code analogous to what
10 Verizon is doing with its 500 numbers, then there would
11 have been no need for that, and all those additional
12 numbering resources would have been preserved.

13 Q And, moving on, your testimony discusses the issue of
14 transport to the CLEC point of interconnection, is that
15 right?

16 A Yes.

17 Q And, by "interconnection", you're discussing your
18 opinion of what the ILECs' obligations are under
19 Section 251(c)(2) of the Telecommunications Act, is
20 that right?

21 A Yes.

22 Q And, your judgment is that this obligation is different
23 from the obligations of all carriers under Section
24 251(a) of the Telecommunications Act?

1 A Yes.

2 Q And, by "point of interconnection", you mean the point
3 on the ILEC's network, on the ILEC's network, where
4 CLEC facilities physically interconnect with the ILEC,
5 is that right?

6 A Yes.

7 Q And, Global NAPs has one point of interconnection in
8 New Hampshire, and that's its interconnection with
9 Verizon at the Manchester tandem, is that right?

10 A Yes.

11 Q And, then, I just have one clarification point. And,
12 I'm going to ask you to turn to Page 26 of your
13 testimony.

14 A Yes.

15 Q On line 21, after the word "ILEC", I just want to
16 clarify, by "ILEC" there, you mean the one with which
17 the CLEC has interconnected, is that right?

18 A Yes.

19 Q And, just returning briefly to the issue of Verizon FX
20 service, and you were comparing the Verizon revenues
21 associated with that in response to one of my
22 questions. When Verizon allows a customer to have a
23 foreign exchange line, it's true, is it not, that
24 Verizon basically charges the customer for an exchange

1 service in the Foreign Exchange and transport -- to
2 transport that exchange service to another location, is
3 that right?

4 A Well, Verizon has a retail pricing schedule that
5 involves a distance component and a dial tone
6 component. But that's its retail pricing decision,
7 which -- and the point is it does not charge access.
8 And, it doesn't pay access, for example, if there's
9 another carrier involved. If a Global NAPs customer
10 dials a Verizon Concord number that represents -- let's
11 say a Global NAPs customer in Concord were to dial a
12 Concord FX number that is associated with a customer
13 physically located in Colebrook, Verizon would not pay
14 Global NAPs for the access -- it would not pay any
15 access charge to Global NAPs. In fact, if an
16 Independent Company customer in the Concord calling
17 area were to dial that number, Verizon wouldn't pay the
18 Independent Company any access charge, even though the
19 call is physically being delivered to a customer in
20 Colebrook.

21 So, the point is, Verizon Foreign
22 Exchange Service does not and has never involved access
23 charges for calls to and from the local calling area of
24 the exchange in which the NXX code is rated. And,

9 A That would be an opportunity cost that Verizon is
10 prohibited from recovering in any charge that it
11 imposes upon a CLEC. So, yes, Verizon would lose the
12 revenue, and that's because the market's competitive,
13 and somebody is offering FX service at a lower price.

18 A No, Verizon can offer its Foreign Exchange Service.
19 Verizon can offer any service that it wants. But, if a
20 competitor comes along and offers a service at a lower
21 price, or at a different price, and Verizon loses the
22 revenue associated with that service, in a competitive
23 market, that's what is expected.

24 Supposing that -- that Global NAPs

1 had physical facilities and offered Foreign Exchange
2 Service at a lower price than Verizon, Verizon would
3 still lose the revenues just as much as it would lose
4 them with virtual NXX. So, the issue is the revenue --
5 the fact that Verizon loses revenues is expected in a
6 competitive environment, if competition is successful
7 in capturing customers. And, if the Commission were
8 to, as a policy, make Verizon whole or make any ILEC
9 whole, whenever it loses revenue to a competitor, then
10 there would be absolutely no possibility of competition
11 ever developing in the state. And, I don't think that
12 it is proper for the Commission to consider, as part of
13 the policy matters before it in this proceeding, the
14 fact of lost revenue to an ILEC, based on the
15 development of competition in the state. If
16 competition is the policy of the state, the policy of
17 the country, and the incumbent loses revenue to a
18 competitor, that's what's expected.

19 Q Can the Commission consider whether basic local rates
20 would increase?

21 A If basic local rates have to increase in order for
22 competition to be successful, to be possible, then that
23 would definitely be one of the conditions that would
24 have to be addressed in order to accommodate

1 competition. We already have plenty of precedent for
2 commissions, both at the state and federal level,
3 adopting policies designed to facilitate competition,
4 whose effect is to increase local rates.

5 The rebalancing of toll rates that,
6 and reductions in access charges, at both the state and
7 federal level, that resulted in local rate increases
8 were intended, in part, to facilitate competition in
9 the long distance market, and succeeded in, in fact,
10 achieving a very significant level of competition in
11 the long distance market. The mere fact that a rate
12 has to be increased to accommodate a rate structure
13 revision or other events that is intended to facilitate
14 competition is not a reason not to do it.

15 That said, again, if and to the
16 extent Verizon is subject to a form of price cap or
17 price freeze regulation, then it may not be entitled to
18 even a rate adjustment, based on competitive losses.
19 And, that's something for the Commission to decide. If
20 the Commission -- It's one thing -- It's one thing to
21 reimburse or to make an ILEC whole as a result of an
22 affirmative policy of rate rebalancing. It's an
23 entirely different matter to make an ILEC whole when,
24 as a result of competition, it sustains a loss of

1 revenue. And, it is not the Commission's role or
2 purpose to insulate ILECs from competition.

3 Q Would you advocate Verizon using virtual NXXs?

4 A Well, SNET does in Connecticut. Verizon effectively is
5 doing it with its 500 service. So, --

6 Q Well, my question is, should the White Pages of the
7 phone book basically have "pick your calling area", in
8 your judgment?

9 A Verizon does offer services like that in some states.
10 In New Jersey, for example, it definitely offers a
11 "pick your calling area" type of service known as
12 "Selective Calling Service". In Massachusetts, Verizon
13 offers "pick your calling area" in the form of various
14 optional local calling plans, including a LATA-wide
15 flat rate local calling service. And, so, you know,
16 the answer is Verizon already is doing things like
17 that, and is certainly doing it with respect to 500
18 service here. Verizon's wireless affiliate is
19 advertising that the home calling area is the entire
20 country. Clearly demonstrating that this is an area in
21 which competition is having some impact. Where, in the
22 wireless market, which is competitive, we see companies
23 absolutely competing on the basis of eliminating toll
24 charges and offering free -- free long distance. I

1 mean, virtually, every one of the wireless carriers
2 have now followed the lead that I believe was actually
3 started by AT&T Wireless a few years ago, in offering
4 free long distance service or bundling long distance
5 service as part of a nationwide or at least a
6 region-wide local calling area. In fact, --

7 Q Those calls aren't free, though, are they?

8 A Excuse me?

9 Q Those calls are not free?

10 A Well, that would depend on the calling plan. If you
11 get one of these calling plans that has unlimited or
12 very high numbers of night and weekend service, then
13 those calls, in that sense, are absolutely free.

14 Q Do you get that service for free?

15 A No. But you don't get dial tone for free either.

16 Q Do you get that service for the \$10 to \$15 to \$20 per
17 month that people get basic exchange service for in New
18 Hampshire?

19 A I've seen wireless services at not much more than
20 advertised at -- not much more, not much more than that
21 that include free long distance.

22 Q For some number of minutes, isn't that right?

23 A Well, you know, when they're offering three or four
24 thousand minutes a month, which I think, if I recall

1 correctly, Verizon is offering 4,000 minutes for 39.95,
2 which works out, if you use them all, to a penny a
3 minute. The practical effect is that, I mean, that is
4 an awful lot of calling, where you almost -- certainly,
5 if somebody made 4,000 minutes on their cellphone on a
6 regular basis, I would be very concerned about brain
7 cancer. But --

8 Q So, you think that \$40 a month is an acceptable basic
9 exchange rate in New Hampshire now?

10 A Well, in Massachusetts, for a LATA-wide local call --
11 LATA-wide flat rate calling, I believe the rate is
12 about \$47 a month.

13 Q And, that's acceptable to you?

14 A Depends what, you know, no one is forcing me to buy a
15 \$40 wireless service or a \$47 LATA-wide flat rate
16 service. I did a -- in Massachusetts, in the docket --
17 DPU docket, I believe it was 99-38, which was an area
18 code, I may have the docket number wrong, which is the
19 last area code proceeding. I was testifying for the
20 Massachusetts Attorney General, and we developed a plan
21 that would have eliminated rate centers throughout
22 Massachusetts and provided LATA wide flat rate calling
23 for all customers. And, my recollection is that we
24 estimated that the average residential bill would

1 increase by something under seven dollars statewide --
2 I'm sorry, I back off of that. Customers who had flat
3 rate service, just local flat rate service, would
4 experience an increase of under seven dollars. And,
5 for many customers, about half of all the customers,
6 they would actually experience a rate reduction under a
7 single plan. So, --

8 Q So, your testimony is that, for instance, for customers
9 of Merrimack County Telephone Company, whose basic rate
10 is now approximately \$11, that they could have
11 statewide toll-free calling and have no increase, in
12 your mind?

13 A My testimony is that, if Merrimack Telephone Company's
14 rate is \$11, it's being -- it's heavily sub -- being
15 heavily subsidized by customers in the rest of the
16 state under some Universal Service or other scheme.
17 And, that the -- we don't know offhand what the -- I
18 certainly don't know offhand what the average toll
19 revenue of those -- or toll bills of those customers
20 are for calls within New Hampshire. It could well be
21 that those customers, in general, might be very happy
22 to pay a higher rate and eliminate toll charges in the
23 -- throughout the state.

24 Q You think there might be some other customers who might

1 not feel that way though?

2 A Well, I'm sure there are. But I think the Commission
3 -- the Commission's responsibility is to develop
4 policies that are for the best interest of the state
5 overall. Expanding local calling or flat rate,
6 statewide local calling, has numerous other additional
7 economic benefits, such as increasing people's access
8 to businesses throughout the state, and providing for
9 increased competition and choice in doing business
10 throughout the state. It has a number of economic
11 development benefits, particularly in small and
12 isolated exchanges, because it makes those communities
13 more accessible to the rest of the state. And, I would
14 argue that, before you decide that -- whether Merrimack
15 Telephone Company customers are happy with their \$11
16 rate, one would need to look at the potential benefits
17 to that community of having statewide local calling and
18 having people from all over the state, and will be able
19 to reach that community on a flat rate basis. So, the
20 answer is far more complex than the kind of simplistic
21 way you've posed it.

22 MR. COOLBROTH: On that simplistic note,
23 I have no further questions.

24 CHAIRMAN GETZ: Thank you. Mr. Boecke.

1 MR. BOECKE: I do have -- I have just a
2 few questions.

3 BY MR. BOECKE:

4 Q Dr. Selwyn, I'd like to -- I'd like to inquire with you
5 about your concept of "opportunity costs" that you were
6 discussing with, Mr. Coolbroth.

7 A Yes.

8 Q And, I'd like to do that in connection by looking at
9 your Figure 4 from your testimony.

10 A Okay.

11 Q Okay. And, I believe you've said, in response to Mr.
12 Coolbroth's question, that that accurately reflects
13 GNAPs' network in New Hampshire today, is that correct?

14 A Yes.

15 Q Okay. Now, over that facility, you show us the dotted
16 line going from the Verizon end-user in Hanover down to
17 the tandem, and then from the tandem to the CLEC
18 switch. You said that that's Verizon's obligation to
19 incur those costs to deliver the traffic to Global
20 NAPs, is that right?

21 A Yes.

22 Q Okay.

23 A For a call originated by a Verizon customer.

24 Q Okay. Now, is that for both local and toll traffic?

1 A No, I'm speaking here of local traffic.

2 Q Okay. So, if this terminating GNAPs customer in
3 Manchester rate center had no virtual number for
4 Hanover, and it just was a Verizon Hanover customer
5 calling a GNAPs Manchester customer, that would be a
6 toll call, would it not?

7 A Yes, it would.

8 Q And, in that situation, GNAPs would be entitled to bill
9 access charges to Verizon?

10 A For terminating the call, yes.

11 Q Correct. And, if GNAPs originated the call in
12 Manchester, and delivered it back so that Verizon could
13 terminate it at its customer in Hanover, then Verizon
14 would be entitled to bill GNAPs access charges, is that
15 correct?

16 A Yes.

17 Q Okay. So, the FCC, in the Tel. Act, wasn't meant to
18 eliminate reciprocal compensation between ILECs and
19 CLECs, was it?

20 A Well, actually, I'm going to back off of my previous
21 answer, because I want to at least clarify the previous
22 answer. If the GNAPs customer placed a call to the
23 Verizon customer in Hanover that GNAPs billed as a toll
24 call, then GNAPs would be obligated to pay access

1 charges to Verizon for terminating the call. If, on
2 the other hand, GNAPs billed that call as a local call,
3 and included it in part of that customer's local
4 calling area, then GNAPs would not be obligated to pay
5 access charges, but would be allowed to -- the call
6 would be handed off as a local call and Verizon would
7 be obligated to terminate it under a recip. comp.
8 arrangement.

9 Q Dr. Selwyn, the FCC was careful, in the wake of the
10 Tel. Act, to preserve the ILEC's carrier access stream,
11 was it not?

12 A Yes.

13 Q So, it never meant to declare all traffic that flows
14 over this dotted line facility to be local?

15 A No, but it also never meant to impose ILEC definitions
16 of "retail local calling areas" on competing carriers.
17 And, that's what would occur if merely because Verizon
18 considers the Hanover/Manchester route to be toll, a
19 call that is originated by a CLEC customer in
20 Manchester to a Verizon customer in Hanover that the
21 CLEC rates as local would not be subject to access
22 charges, because that is not a toll call.

23 Q That's a concept you've discussed in your testimony,
24 that carriers are meant to compete on the difference of

1 calling areas. And, let me just ask you, when you say
2 "the FCC didn't mean to impose it", didn't they mean
3 "didn't mean to impose it on the CLEC for the CLEC's
4 customers"?

5 A Well, that's what we're talking about here. For the
6 origination of a call by a CLEC customer, if the CLEC
7 treats the entire state as the CLEC's local calling
8 area, then the CLEC is not -- the CLEC is entitled to
9 exchange traffic under recip. comp.

10 Q Let me ask you directly. Should one carrier be allowed
11 to redefine the local calling area of another carrier?

12 A A carrier should be allowed to define its own local
13 calling areas. And, in the case of --

14 Q For whose customer?

15 A For its customers.

16 Q Its customers. Should it be allowed to define the
17 calling area for another carrier's customers? Should
18 Verizon be allowed to, any call originated by GNAPs,
19 Verizon will decide that that's a toll call, and access
20 charges will apply, instead of paying recip. comp.
21 Should Verizon be allowed to do that?

22 A Well, I understand that some ILECs -- sorry, some
23 Independent Companies in this state have attempted to
24 do that. So, --

1 Q And you would support that?

2 A No.

3 Q Okay. Let me --

4 A But that's not to say it hasn't happened.

5 Q Okay. Let me ask you another question that came up
6 during your cross-exam. And, I'm probably going to
7 make it worse, but let's just see where we can --

8 A I'll certainly try.

9 Q But, on the topic of "information access", in the wake
10 of the FCC's order, I think we're all in agreement that
11 every call to the Internet, now matter how dialed, is
12 information access. Is that true?

13 A That's how I read it.

14 Q Okay. You would agree with that. Do you read the
15 FCC's order as saying "information access is always
16 mutually exclusive of exchange access"?

17 A Yes.

18 Q Can you point --

19 A Yes, it is.

20 Q Can you point me to anything in the FCC's order that
21 says, "if it's information access, by definition, it
22 cannot be exchange access"?

23 A Well, if it's exchange access, then reciprocal comp.
24 should apply under the state jurisdiction. And, you

1 can't classify it as --

2 Q Wait. Let me -- I'm sorry. Let me stop you there. If
3 it's exchange access service, recip comp. applies? Why
4 would that be? Wouldn't that carrier access charges
5 apply?

6 A I'm sorry, what do you mean by "exchange"? You mean
7 interexchange -- interexchange access?

8 Q Right.

9 A I took your question --

10 Q Oh, I'm sorry, to be local exchange service?

11 A -- to be local exchange service, --

12 Q Okay.

13 A -- as opposed to access --

14 CHAIRMAN GETZ: Gentlemen, if one person
15 could talk at a time, I think it would be --

16 THE WITNESS: Sorry.

17 CHAIRMAN GETZ: -- a lot easier for the
18 reporter.

19 MR. BOECKE: Okay.

20 BY MR. BOECKE:

21 Q Let me try it again. We are all in agreement that
22 calls to the Internet are information access, as the
23 FCC has defined that termed?

24 A As I read the FCC's order, a call to the Internet is

1 jurisdictionally interstate information access service.

2 Q Okay. Now, "exchange access", as the FCC defines it,
3 is the use of the ILEC's network to originate or
4 terminate an interexchange call. Do you agree with
5 that definition?

6 A Yes.

7 Q Okay. Did the FCC say, "because a call to the Internet
8 is information access, it's mutually exclusive of being
9 exchange access"?

10 A Yes, because the FCC has exempted information access
11 calls from access charges.

12 Q Correct. They're exempt from access charges. But does
13 that mean it's not exchange access service? Do you
14 read the ESP exemption as saying "it's no longer
15 exchange access service"?

16 A Yes.

17 Q Dr. Selwyn, you've been around since Computer 1,
18 Computer 2 and Computer 3, is that true?

19 A Yes.

20 Q Okay. So, you're familiar with the term of "enhanced
21 services", right?

22 A Yes.

23 Q Do information services and enhanced services mean the
24 same thing to you?

1 A They have been used in that term, although I'm not --
2 that doesn't say that "information access service is an
3 enhanced service". The Internet service, the Internet
4 access service that is provided by an Internet Service
5 Provider, for example, would fall into that category.
6 But the access to the Internet is not an enhanced
7 service. That is the -- and, this is -- this goes to
8 the whole notion of this "one call" theory.

9 In other words, the public switched
10 network connection from the end user to the ISP, the
11 point of delivery of the call to the ISP modem is not
12 enhanced service.

13 Q So, you would disagree then with the FCC that said it's
14 a single call. You view that as two calls?

15 A Yes, as did the judge in the March 19 -- March 2000
16 order. Of course it's two calls. I mean, the public
17 switched network call ends where the call is handed off
18 to the customer, who is an ISP. The ISP is not a
19 telecommunications carrier. And, what the ISP does
20 with the call beyond that point is to provide an
21 information service, which the FCC has just, in fact,
22 found to be an information service in the cable order.
23 And, I fail to see how you can argue on the one hand
24 that these are different things, as the FCC has just

1 recently done, and then somehow come up with this "one
2 call" theory.

3 Q Okay. So, you disagree with the FCC. We'll leave it
4 at that. But, going back to the enhanced service
5 provider exemption, the one the FCC fashioned during
6 the computer inquiries. Wasn't the qualification for
7 that, they're exempt from access charges provided they
8 get a local connection to the network out of the state
9 local service tariffs?

10 A Yes.

11 Q So, if I'm an ESP, and I give people a California
12 telephone number, and I'm in Concord, New Hampshire, I
13 don't declare that to be exempt from toll and access,
14 do I?

15 A As of the rule that existed at that time, that's right.

16 Q Okay.

17 A But that's what -- that's what changed. Because what
18 the FCC has now said is that the information access
19 service is not local service. In other words, it has
20 drawn a distinction. If the service were being
21 provided out of the state tariff, then it would be
22 indistinguishable from any other services provided out
23 of the state tariff, and any recip. comp. or other
24 rules that applied for intercarrier traffic exchange,

1 for state tariff local service, would also apply. It's
2 because the state -- the FCC said "this is no longer a
3 local service, this is different. And, therefore, we
4 apply a different paradigm to it." It doesn't end at
5 the ISP, it ends at the -- someplace in the Internet
6 cloud, this is now different. And, the local service
7 tariff no longer applies, because the FCC has declared
8 it to be different.

9 Q But the ESP exemption, which allowed them to purchase
10 out of the local tariff, the FCC never said that that
11 made it a local service, did they? It was still
12 interstate traffic. The FCC simply said "but you can
13 connect to the PSTN", public switched network, via a
14 Flexpath line or a Centrex line or whatever else you
15 could find in the ILEC exchange tariff. They never
16 said that that makes the traffic intrastate, did they?

17 A I don't know. I don't know if I would agree with that
18 or not.

19 Q Okay. I wrote down something during the same colloquy
20 you were having, and I just want to ask you a question
21 about it. You said -- I think you said "Verizon has an
22 ISP call origination tariff"?

23 A Yes.

24 Q Do you recall that?

1 A Yes.

2 Q Is that -- By that, do you mean the "Internet Protocol
3 Routing Service tariff?

4 A No.

5 Q What were you referring to then?

6 A If I could refer you to Exhibit 4. And, this is in the
7 FCC tariff that's included in here, and it's the first
8 -- it's the first page following the center fold,
9 "Tariff F.C.C. Number 11 Original Page 31-297". And,
10 if you look at the bottom of that page, at paragraph
11 "31.13.15", "ISP Traffic Origination Service",
12 "Interconnection charge, per minute, per call
13 eight-tenths of a cent". That's what I was referring
14 to.

15 BY MR. BOECKE:

16 Q Now, Dr. Selwyn, counsel for the independents also
17 asked you a question at the tail end of his cross
18 dealing with, in your view, whether there was any
19 rational distinction to be made for a local call versus
20 a toll call, making a distinction between the two
21 calls. Do you recall those questions?

22 A As an economic matter, you mean?

23 Q I think --

24 A I think that was how he was framing it.

1 Q Right.

2 A Yes. I recall the questions.

3 Q Okay. Now, if you turn to Page 18 of your testimony,
4 this is your prefiled testimony.

5 A Yes.

6 Q In response to the question you were asked, you
7 described the "value of service" pricing that
8 commissions traditionally have followed. Do you recall
9 that part of your testimony?

10 A Yes. Yes.

11 Q And, one of the things you describe there is that,
12 under traditional "value of service" concepts, the
13 incumbent's or the ILEC's joint costs, including all
14 non-traffic-sensitive loop costs, were assigned to
15 usage services, primarily toll. Do you recall that
16 testimony?

17 A That a portion of those costs were assigned, yes.

18 Q A portion of them. Now, at that point, we're talking
19 about embedded costs, aren't we? In a traditional
20 "value of service", we're talking about residual
21 ratemaking. The Commission prices toll services at
22 whatever level they believe is appropriate. And, then,
23 the residual falls to the basic exchange ratepayers.
24 Is that what you're describing?

1 A Generally.

2 Q All right. Now, when I turn the page to Page 19, and
3 you now are talking about why you think this
4 distinction is no longer important, you have first the
5 observation, on line 6 through 10, that costs are
6 declining and distance is never -- is no longer a
7 driver of costs. Is that correct?

8 A Yes.

9 Q Now, at that point, you're talking about sort of
10 forward-looking costs, aren't you? Incremental
11 traffic-sensitive costs?

12 A Yes.

13 Q Okay. The prior page we were talking embedded costs,
14 joint costs, sunk costs, non-traffic-sensitive loop
15 costs. Where did they go?

16 A What do you mean "where did they go?"

17 Q Well, if you eliminate the local versus the toll
18 distinction, --

19 A Yes.

20 Q -- where does the carrier recover its embedded
21 non-traffic-sensitive loop costs?

22 A How much time do you have? Where does a carrier
23 recover it? Well, it recovers it by in any number of
24 what I might describe as "corporate welfare benefits"

1 that have been conferred on the carrier over the years,
2 such as free cellular licenses that enabled the carrier
3 to capture earnings below the line. It recovers it by
4 its ability to engage in joint marketing of -- with its
5 long distance affiliate, using its embedded customer
6 base, without compensating -- without having to
7 compensate the ILEC for the value of the joint
8 marketing services that the ILEC provides to the
9 affiliate.

10 There are any number of ways in
11 which the ILEC is being given an opportunity to more
12 than recover those embedded costs. Recovers it through
13 Yellow Page advertising, to the extent that any portion
14 of that has been shifted below the line. I could go
15 on.

16 CMSR. BROCKWAY: Just for clarification
17 on the record, when you say "toll affiliate", are you
18 talking about, under 271, out-of-region inter-LATA?

19 THE WITNESS: I'm talking about the
20 Section 272 affiliate that would be -- that would provide
21 the inter-LATA toll service, once the Company gets its
22 Section 271 authority. And, under the provisions of the
23 Telecom Act, the --

24 CMSR. BROCKWAY: No, I --

1 THE WITNESS: -- the affiliate can
2 engage in joint marketing with the ILEC.

3 CMSR. BROCKWAY: I understand. Thank
4 you.

5 MR. BOECKE: That's all I have, Doctor.
6 Thank you, Dr. Selwyn.

7 CHAIRMAN GETZ: Mr. Donahue, did you
8 have something for this witness?

9 MR. DONAHUE: No questions.

10 CHAIRMAN GETZ: I think we've covered
11 all the possible cross. Do you have redirect, Mr.
12 Scheltema?

13 MR. SCHELTEMA: Yes, I do.

14 REDIRECT EXAMINATION

15 BY MR. SCHELTEMA:

16 Q Are you ready, Dr. Selwyn?

17 A Yes.

18 Q You were asked whether any LECs provide FX service
19 where they don't have a customer in the physical
20 exchange by Ms. Cusack. Do you recall that?

21 A I recall the question, yes.

22 Q And, your response was that "it was irrelevant". Can
23 you please explain that response?

24 A Yes.

1 Q Why it was irrelevant.

2 A In a sense, the colloquy I was having a little while
3 ago with Mr. Coolbroth highlighted this point. The
4 presence or absence of a customer physically located --
5 of one single customer physically located in an
6 exchange doesn't have any bearing, one way or the
7 other, on the manner in which that same NXX code might
8 be used for what we're referring to as "virtual NXX"
9 type services.

10 In other words, if, for example,
11 Global NAPs has an NXX code in Colebrook or in the
12 Colebrook area, so that the calls are local from
13 Colebrook, whether or not Global NAPs physically serves
14 a customer, is physically located -- serves a customer
15 who's physically located in Colebrook. Simply, just
16 for purposes of somehow, I'd almost have to, as I say,
17 it's sort of an entry fee, simply does not affect the
18 VNXX matter. And, what the proposal would basically do
19 is to discriminate against CLECs that do not have a
20 network built out statewide. And, in effect, force
21 them to incur these entry fees, simply to establish a
22 presence someplace in each exchange that they want to
23 offer the VNXX service. It just doesn't make any
24 particular sense. It's not something that has any

1 economic basis. And, therefore, I don't think it's
2 really relevant to the VNXX question.

3 Q Okay. Now, with respect to a response earlier this
4 morning, it was a rather sweeping response to an
5 open-ended question. And, the question from Mr.
6 Coolbroth went to the point that you "agree with
7 Verizon's interpretation of the FCC's ISP order". Do
8 you recall that?

9 A I recall the question, yes.

10 Q Okay. We both work for the same person in this case,
11 and I'm not sure that my client would like you to agree
12 with Verizon in its totality of its interpretation
13 there. Would you clarify that please?

14 A Yes. What I had intended to say is that I, and what I
15 thought I was saying, is that I agree with Verizon's
16 interpretation that the FCC has designated information
17 Internet-bound calls as jurisdictionally interstate.
18 And, that is the extent to which I was -- my answer was
19 intended to go.

20 Q Okay. Now, earlier, Mr. Coolbroth also asked you, I
21 believe, about Wide Area Rate Centers. And, you gave a
22 little bit of history about the advent of them in New
23 York. And, they -- subsequently, they never really
24 came into existence, they weren't implemented. And, at

1 that time, you said that they were basically abandoned
2 as a result of collaboratives or technical sessions?

3 A That's my understanding, yes.

4 Q Okay. Can you explain exactly why they were abandoned?
5 I mean, it can't be a direct result of a collaborative.
6 Somebody must have posed some resistance, some carriers
7 or some party. Why -- Can you flesh this out a little
8 bit for me?

9 A It's my understanding that the ILECs presented very
10 strong opposition and were concerned about issues like
11 the impact on toll revenues and the like. And, I was
12 not a -- I was not involved in that case, I don't know
13 precisely what happened, but, as I understand it, the
14 Commission simply -- the collaborative process sent a
15 report to the Commission indicating that it was not
16 being -- it shouldn't be pursued and it wasn't pursued.

17 Q Okay. Now, just within the last five minutes or so,
18 Mr. Coolbroth -- I mean, excuse me, Verizon's counsel
19 asked you to look at the top of a page, and I don't
20 recall the page number, but it referenced the recovery
21 of loop costs. Do you recall that?

22 A I think it was -- it's about Page 18.

23 Q And, had the reference "forward-looking costs".

24 A Well, we were discussing my testimony on Page 18,

1 addressing the value of service, and then the point on
2 Page 19, that the distance cost had essentially
3 disappeared. And, he asked me, with respect to the
4 Page 19 testimony, whether I was there referring to
5 "forward-looking costs", which I was.

6 Q Well, now, with respect to that question, specifically
7 he posed to you a reference to the "recovery of loop
8 costs". Is it your testimony that loop costs -- that
9 toll charges are intended to recover loop costs?

10 A Well, historically, that is what their role was in
11 part. Because, effectively, what happened was that the
12 local rate would be set on a residual basis.
13 Essentially, rates were established for toll, for
14 vertical features, for Yellow Pages, for other things,
15 that all produced revenue in excess of the incremental
16 costs of those services. And, the excess revenue was
17 used to allow the entry fee, the basic minimal monthly
18 charge, to be set at a level that was not -- did not
19 typically recover the cost of the subscriber line.

20 That said, on average, customers
21 then, and even more so now, typically buy enough of the
22 various other services that are priced above cost, such
23 as Caller ID and Call Waiting and unlisted numbers and
24 things like that. And, place enough interstate toll

1 calls that generate access revenues for the local
2 exchange carrier, plus the Federal Subscriber Line
3 Charge and other things of that sort. So that, on
4 average, customers, even residential customers, are not
5 being subsidized. That is, they are paying a total
6 bill that is well in excess of cost, even embedded
7 costs.

8 Q Okay. Is it your understanding that where universal
9 service is subsidized, those subsidies must be made
10 explicit?

11 A That is the current standard, yes. It was not the case
12 before the Telecom Act. The testimony on Page 18 is
13 describing the historic condition. But, today, to the
14 extent that subscriber lines require a subsidization,
15 those subsidies need to be made explicit.

16 MR. SCHELTEMA: Thank you. That's all.

17 BY CMSR. BROCKWAY:

18 Q Dr. Selwyn, good afternoon.

19 A Good afternoon.

20 Q I'm going to bounce around a little bit, just to try to
21 clear up some of the things that at least at the time
22 didn't appear clear to me. With respect to a Wide Area
23 Rate Center, could you discuss for us what the rating
24 would be for calls placed to or from this, depending

1 upon who was the carrier, and associate that with the
2 revenue flows?

3 A Well, the Wide Area Rate Center is simply accomplishing
4 with a single number what the VNXX arrangement
5 accomplishes with multiple numbers. In other words, it
6 is rather than sort of going through this process of
7 establishing NXX codes in each local calling area, and
8 thereby having to use up a lot of codes, simply define
9 the code as "local", from perhaps, for example, the
10 entire state. Which means that, if a call is -- in the
11 routing tables, the call would be -- and the rating
12 tables associated with each originating central office,
13 the call would be designated as local for rating
14 purposes. And, for routing purposes, would be routed
15 exactly the way it is -- the way that the -- the call
16 to a CLEC would be routed, that is to the point of
17 interconnection. So, it would have no net change. It
18 would create no net change in the -- in the present
19 arrangement. It would simply conserve numbers.

20 Q If we were to, well, the present arrangement you're
21 referring to, the arrangement that we have now under
22 the moratorium?

23 A Yes.

24 Q And, if the moratorium were lifted, and then add to

1 that the assumption that the FCC is upheld, and we're
2 past the phase-down period on reciprocal compensation.
3 Who would owe who what for difference kinds of calls in
4 Wide Area Rate Center?

5 A I'll try. Again, as I have indicated, I do not believe
6 that there is any authority under which an intrastate
7 toll charge can be applied to an ISP-bound call, no
8 matter from where its placed. If the FCC moratorium is
9 ended and we go to a pure bill-and-keep arrangement,
10 then --

11 Q I was thinking of our own moratorium. So, if I could
12 stop you there?

13 A Sure.

14 Q I'm taking you to mean that our moratorium is
15 irrelevant, because we would not -- the ISP -- excuse
16 me, the ILECs and the Independent LECs would not have
17 the authority to charge access to the CLECs for
18 ISP-bound calls in any event?

19 A That is my belief, yes. But the -- that only to
20 ISP-bound calls.

21 Q Okay.

22 A With respect to non-ISP calls, that's a different
23 story. So, the moratorium, if the FCC is upheld and
24 the interstate nature of these -- of ISP-bound calls is

7 Q It's easy for me to get mixed up in this, but I think
8 it sounds to me as if you've changed my hypothetical.
9 Because what I was trying to get to was the
10 circumstance in which -- no, I'm sorry, you're right.
11 If the FCC is upheld, the moratorium is lifted, okay.

15 Q The agreement that's been made amongst the parties here
16 in New Hampshire, with respect to -- well, I'd have to
17 read it out of the order. Maybe somebody else can help
18 me with the --

23 Q No. That's the Global NAPs agreement?

1 mean in this case?

2 CMSR. BROCKWAY: Yes.

3 MR. BOECKE: There was -- I believe the
4 interim arrangement was that the independents would pass the
5 traffic and not bill toll charges to their customer. The
6 CLECs would receive the traffic and not bill anybody
7 reciprocal compensation. And, Verizon agreed to transit the
8 traffic and not charge either the CLEC or Independent for
9 tandem transit service. Is that the moratorium?

10 CMSR. BROCKWAY: Yes.

11 MR. BOECKE: Okay.

12 THE WITNESS: Okay.

13 BY CMSR. BROCKWAY:

14 Q And, assuming that that goes away, and people go back
15 to whatever charges they feel that they're entitled to
16 get, who would be paying who what, for calls with
17 respect to a Wide Area Rate Center?

18 A Okay. If the FCC is upheld, and, so, let me answer
19 that in the case where the FCC is upheld and then in
20 the case where it's not upheld, where it's reversed.
21 The FCC is upheld, with respect to ISP-bound traffic.
22 And, in a bill-and-keep construct, it would be the
23 obligation of each originating carrier to carry -- to
24 carry the traffic to the point of interconnection with

1 the CLEC that is providing the ISP-bound service.
2 Which means that, in the case of an Independent
3 Company, it would be the Independent Company's
4 responsibility to negotiate with Verizon for any
5 transit traffic and to pay for that transit traffic,
6 for calls originated by the Independent Company's
7 customers.

8 For calls originated by a CLEC,
9 that utilize Verizon for transit traffic, it would be
10 the CLEC's obligation to pay Verizon for that transit
11 traffic. That is CLEC to Independent transitting
12 Verizon. With respect to other calls and with respect
13 to the case where the FCC is reversed, and it comes
14 back to your jurisdiction, then there would be some
15 issues that the Commission has to decide, as to how
16 it's -- whether or not it is going to allow calls to
17 virtual NXX codes to be rated as local. If it does,
18 then the Wide Area Rate Center should be treated in a
19 consistent way, and that any call that would be allowed
20 under VNXX would also be allowed under WARC, because
21 the only difference between those two goes to the
22 number assignment.

23 If it were determined that a
24 virtual NXX arrangement is not going to be permitted,

1 then there's no point in proceeding with the Wide Area
2 Rate Center, except for ISP calls, if the FCC retains
3 jurisdiction. So, you can separately identify them,
4 and rate them accordingly. Does that help with what
5 you were looking for?

6 Q I certainly hope so, because I'm going to have to read
7 the transcript.

8 A I probably should, too.

9 Q If the pace of today's proceeding depended upon my
10 understanding of everything that's been said, we'd be
11 here for a long time. But I have confidence that it
12 will all become clear when it needs to become clear.
13 But maybe you can help me with something. You and the
14 Staff had a colloquy about dial tone, which completely
15 passed me by. And, I would like to invite you to
16 speculate about what Staff was getting at. And,
17 whether you agreed with them or not and why? They were
18 getting at something. And, you weren't agreeing with
19 them. I could see you sparring, but that's all I got
20 out of that.

21 A I believe that the source of the disagreement related
22 to the matter of whether or not Foreign Exchange was a
23 one-way service or a two-way service. At least that's
24 what I think -- that's where I think we were going.

1 And, let me explain what I mean by that. When Verizon
2 provides Foreign Exchange Service, for example, giving
3 that customer in Colebrook a Concord phone number,
4 here's what happens. If I am somebody else in Concord
5 and I dial that customer's Concord phone number, the
6 phone rings in Colebrook. And, I've now made this 140
7 mile call to Colebrook, but I'm charged as a local
8 call. So, if the Colebrook customer --

9 Q You, as the originating?

10 A I, as the originating party, who's dialing this fellow.
11 All right? If the customer in Colebrook picks up that
12 phone, he actually hears dial tone from a central
13 office in Concord, and it's as if he's got a 140 mile
14 long wire, RJ-11 wire, hooked up to his phone, plugging
15 one end of it in in Colebrook and running down I-93 or
16 wherever to --

17 Q What's an "RJ-11 wire"?

18 A You know, a standard phone cord that you normally plug
19 a phone into the wall. Instead of being six feet long,
20 it's 140 miles long. But, conceptually, it's exactly
21 the same thing. He hears dial tone from Concord,
22 whatever number he dials is local -- is subject to the
23 rate center to the local calling area, applicable in
24 Concord. Okay? Now, virtual NXX --

1 Q What does it mean to be "subject to the local calling
2 area"?

3 A Well, in other words, it -- well, let me give you an
4 example. If he uses that phone to call his next door
5 neighbor in Colebrook, he will be charged for a toll
6 call from Concord to Colebrook. Because, as far as
7 Verizon knows, that is a -- as far as the Verizon
8 billing system knows and central office knows, that's a
9 Concord telephone. In other words, to use my 140 mile
10 phone cord example, if the fellow in Colebrook had this
11 wire plugged into the wall in Concord, and then called
12 his neighbor in Colebrook, from the phone company's
13 perspective, they don't know where -- what's on the
14 other end of that wire. They only know that he's
15 plugged in in Concord, and they're going to charge him
16 for calls there. Which means, if he dials another
17 Concord number, it will be local. If he calls back to
18 Colebrook, it will be toll, even if he's calling just
19 across the street. Okay?

20 Q Okay.

21 A That's the normal way Verizon offers Foreign Exchange
22 service, and it is a two-way service. Now, when Global
23 NAPs offers service, a Foreign Exchange type of service
24 using a virtual NXX code, that call is local, in terms

1 of the incoming call. That is, the Colebrook customer
2 dialing a Global NAPs Colebrook NXX code is charged for
3 a local call, because the rating of the call to
4 Colebrook is -- to the Colebrook number is what is
5 applicable. The customer, the Global NAPs customer
6 with that service does not get a dial tone that makes
7 the call local to the Colebrook -- I'm sorry, to the
8 Concord calling area from Colebrook, because it, in
9 effect, is being used only for incoming calls. Now, if
10 there is -- if the Global NAPs customer in Concord, who
11 has this service, wants to place an outgoing call,
12 Global NAPs doesn't charge for outgoing calls to
13 anywhere in the state. So, therefore, in effect,
14 whether or not this customer is using a virtual NXX
15 code for his Global NAPs service or a local Concord
16 number for his Global NAPs service, the outward calling
17 area is exactly the same. He can call back to
18 Colebrook on a local call basis, or vice versa.

19 Q I apologize, but I'm tied up in this hypothetical.

20 A Can I try to diagram this?

21 Q I would love it.

22 A Okay. If I may.

23 CHAIRMAN GETZ: Excuse me, maybe if we
24 could take a ten minute break at this point. I think the

1 reporter needs to change paper, and we have some more
2 questions. So, let's take the ten minutes now.

3 (Recess taken at 3:21 p.m. and
4 reconvened at 3:38 p.m.)

5 BY THE WITNESS:

6 A I'll try to be brief. What I've done here is diagram
7 two alternate examples. The first is, on the left-hand
8 side, is the case of a Verizon Foreign Exchange
9 Service, and the other is a CLEC Foreign Exchange
10 Service using VNXX codes. So, let me explain. In both
11 cases, we're assuming that the physical location of the
12 customer is in Concord and the phone number in both
13 cases is a Colebrook number. So, the circles, and
14 there's one here and there's one here (indicating),
15 represent the Colebrook local calling area. Now, --

16 CMSR. GEIGER: Are you saying, Dr.
17 Selwyn, that the Concord caller has a Colebrook phone
18 number?

19 THE WITNESS: No. We haven't talked
20 about the caller yet.

21 CMSR. GEIGER: Okay.

22 THE WITNESS: This is the FX customer.
23 This is the -- the FX customer is physically in Concord, but
24 he has Foreign Exchange Service that is assigned a Colebrook

1 phone number. And, the purpose is so --

2 CMSR. GEIGER: Right. And that --

3 THE WITNESS: And, the purpose is so
4 people in Colebrook dialing a local number can reach him.

5 CMSR. GEIGER: Well, isn't also the
6 purpose so that the Concord customer can call Colebrook?

7 THE WITNESS: Yes. And, that's what I'm
8 going to explain.

9 CMSR. GEIGER: And that Concord customer
10 pays an extra charge for that. In other words, it's not --
11 the Concord customer doesn't just sign up for Foreign
12 Exchange and then never pay any charge for those phone
13 calls. That Concord customer is paying an extra charge, if
14 you will, for the privilege of being able to call those
15 Colebrook customers, correct?

16 THE WITNESS: The Concord customer,
17 under Verizon's retail tariff, is paying a mileage charge
18 for this wire that runs -- what I've described as, in
19 effect, a long phone cord --

20 CMSR. GEIGER: Right.

21 THE WITNESS: -- running from his
22 location in Concord to the central office in -- serving
23 Colebrook.

24 CMSR. GEIGER: Okay.

1 THE WITNESS: Okay?

2 CONTINUED BY THE WITNESS:

3 A Now, for incoming calls to this customer, any call
4 placed from within this local calling area, which would
5 include Colebrook and presumably some nearby towns,
6 would be rated as local. The call would arrive, would
7 be dialed from anywhere within this circle, would go to
8 this central office, and would be transported and
9 delivered down here (indicating). For outgoing call
10 purposes, if this fellow picks up this phone, the dial
11 tone that he hears is physically coming out of this
12 switch, in most cases, although not -- there are
13 exemptions. But, for the most part, that's what he
14 hears. And, if he dials a call anywhere within this
15 circle, it will be rated as local. If he dials a call
16 anywhere else using this phone, including his next door
17 neighbor in Concord, it will be charged as a toll call
18 from Colebrook back to Concord.

19 BY CMSR. BROCKWAY:

20 Q Well, that -- you mentioned the dial tone, and that's
21 where I got thrown off, because I was -- I didn't
22 understand what the relationship was between the
23 origination of the dial tone and anything.

24 A Okay. The relationship, when we normally speak of "FX

1 service", we're talking about the location at which the
2 dial tone is provided as representing the local calling
3 area for that FX. In other words, it is the Concord
4 customer, with a long wire plugged into the Colebrook
5 central office and getting Colebrook dial tone.

6 Q Is that something in the tariff that says "and the
7 local calling area shall be the calling area of the
8 central office from which the dial tone comes"?

9 A Not necessarily in so many words, but I believe, yes, I
10 believe that is going to be in Verizon's tariff. In
11 other words, that, you know, I can find it and submit
12 it for the record, if you'd like, but it --

13 Q No. I'm just trying to understand, when you were
14 discussing with Ms. Cusack about dial tone, was dial
15 tone a proxy for the designation of a certain central
16 office?

17 A Yes.

18 Q Okay.

19 A I understood it that way. And, in the industry, when
20 you speak of the -- what we sometimes refer to as, in
21 describing Foreign Exchange service, is this is the
22 closed end (indicating), because this is where the
23 customer is. And, this is sometimes referred to as
24 as the "open end" (indicating), because it can be

1 accessed or you can use two access customers in the
2 local calling area. So, the open end of the Foreign
3 Exchange also corresponds to the dial tone end of a
4 Foreign Exchange. Those terms are used interchangeably
5 in referring to Foreign Exchange service. And, the
6 closed end is where the customer lives.

7 MR. SCHELTEMA: Dr. Selwyn, I think one
8 thing that might clarify it is, isn't the switch the
9 origination of the dial tone?

10 THE WITNESS: Yes.

11 MR. SCHELTEMA: Is that where the dial
12 tone comes from?

13 THE WITNESS: The dial tone is going to
14 -- The dial tone comes, when this phone is picked up, --

15 CMSR. BROCKWAY: I understand that.
16 That's not the issue.

17 THE WITNESS: -- the dial tone is coming
18 from here (indicating).

19 BY CMSR. BROCKWAY:

20 Q Could you briefly go on and describe the right-hand
21 side of the diagram.

22 A Okay. Now, on the right-hand side diagram, we have a
23 CLEC, in this case having a switch physically in
24 Manchester, serving a customer on a long loop

1 physically in Concord. Now, that is just because CLECs
2 only have one switch and they all serve customers over
3 a wide geographic area from that switch. So, this wire
4 from Manchester to Concord is provided by the CLEC.
5 And, it may be owned by the CLEC or leased by the CLEC,
6 but it's the CLEC's responsibility and the CLEC is
7 paying for it. So, when this customer picks up the
8 phone, and this is where the point of dial tone may get
9 confusing, because here, this customer picks up the
10 phone and the dial tone is going to come from this
11 Manchester switch. Okay? Only because that's where
12 the switch is. And, this is where that synonym that I
13 mentioned, between open and closed end of Foreign
14 Exchange service breaks down. Because now we're not
15 talking about Verizon service, we're talk about how a
16 CLEC provides Foreign Exchange Service.

17 In this case, this customer will be
18 assigned a Colebrook phone number using the CLEC's
19 virtual NXX code rated to Colebrook. Now, what that
20 means is that anyone in this circle, which is the
21 Colebrook local calling area, can place calls dialing
22 that Colebrook phone number, which will be routed by
23 Verizon to the point of interconnection to the CLEC,
24 which will be someplace, you know, around here

1 (indicating) okay? It will go over -- Verizon will
2 route the call to the POI. The CLEC will pick up the
3 call, bring it into its switch, and then route the call
4 to its customer, who happens in this case to be in
5 Concord.

6 Now, this is where the service is
7 different. From the inbound call standpoint, the
8 caller in Colebrook, dialing a Colebrook number, it's
9 still a local call, reaches this customer in Concord
10 using the CLEC service. But, for outward calls, the
11 CLEC is getting dial tone from the CLEC -- the CLEC
12 customer in Concord is getting dial tone from the CLEC
13 switch in Manchester, and his local calling area, for
14 outgoing calls, will be whatever the CLEC offers. If,
15 for example, the CLEC says "I'm going to offer local
16 calling statewide", then this fellow's local calling
17 area is the entire State of New Hampshire. If the CLEC
18 says "I'm only going to offer local calling in an area
19 I designate for this customer, such as the Concord --
20 I'll mimic the Concord calling area that Verizon has,
21 the CLEC would then define a local calling area. I
22 don't want to draw it here, because I don't want to
23 confuse this. But the CLEC would then define a local
24 calling area for this customer as a retail pricing

1 decision, having nothing to do with where the dial tone
2 is.

3 Q And, notwithstanding that the NXX is a Colebrook NXX?

4 A That's correct, because inward and outward are
5 separate. I hope that --

6 Q I'm not certain still what you and Staff were debating,
7 but now I understand the diagram. So, I'm sure that,
8 when I go back and read the transcript, I will
9 understand.

10 A I think the Staff was -- I think, what the Staff was
11 trying to do was to demonstrate that this -- these two
12 services are not exactly the same. And, I would agree
13 with that. They're not. That, from an inbound
14 standpoint, from the calling party's standpoint,
15 dialing that Colebrook number, it's indistinguishable.
16 He dials the call -- the customer in Colebrook dials a
17 Colebrook number, ends up at this customer in Concord.
18 The difference is, on the outward side, that the
19 Verizon customer in Concord picks up his phone, gets --
20 he physically gets dial tone in Colebrook, and the CLEC
21 customer physically gets dial tone from wherever the
22 CLEC switch happens to be; Manchester, in this example.

23 CMSR. BROCKWAY: Okay. I verify much
24 appreciate this, but I apologize, I have to go, so we can't

1 get into Bill Melody and David Gable this afternoon.

2 CHAIRMAN GETZ: If we could have this
3 printed, and we'll mark the diagram as "Exhibit Number 6"
4 for identification.

5 BY CMSR. GEIGER:

6 Q Dr. Selwyn, I don't think you answered my question
7 about the phone number that's assigned to the Concord
8 customer who has purchased Foreign Exchange service to
9 Colebrook. Is it a Colebrook NXX or is it a Concord
10 NXX?

11 A Yes. Yes. The Verizon customer, I mean, this, the
12 Concord -- he may also have, coincidentally, a Concord
13 phone number as a totally separate service. But, with
14 respect to the service in this diagram, the Concord
15 customer has a Colebrook phone number.

16 CMSR. GEIGER: Okay. I'm sorry. I
17 didn't see that. Thank you.

18 CHAIRMAN GETZ: I think that's all the
19 questions we have for this afternoon. And, Mr. Coolbroth,
20 you're rising.

21 MR. COOLBROTH: Well, Mr. Chairman, in
22 response to a question from Commissioner Brockway, Dr.
23 Selwyn, for the first time, out of any of his testimony and
24 out of any of his presentation, made a statement to the

1 Commission that "Independent Telephone Companies are
2 required to purchase Verizon transit service to transit that
3 call to the Global NAPs point of interconnection on the
4 Verizon network." His testimony had not gone into that at
5 all before. I have some questions about that, if that's his
6 testimony. He didn't have that testimony before,
7 unfortunately, it only came out on a question from
8 Commissioner Brockway. I would ask, respectfully, for leave
9 to ask Dr. Selwyn a few questions about that.

10 (Bench conference between Chrmn. Getz
11 and Cmsr. Geiger.)

12 CHAIRMAN GETZ: Okay. If you would ask
13 your questions, Mr. Coolbroth.

14 MR. COOLBROTH: Thank you, Mr. Chairman.

15 BY MR. COOLBROTH:

16 Q Dr. Selwyn, first of all, what I'd like to try to do is
17 to point out what the issue is.

18 A I'm walking up here so I can see what you're doing.

19 Q If I could spell. Now -- I'm sorry. Global NAPs does
20 not have an interconnection -- a point of
21 interconnection with the Dixville Telephone Company, to
22 your knowledge, does it?

23 A No, not to my knowledge.

24 Q And -- But Dixville Telephone Company would have a

1 point of interconnection with Verizon?

2 A I assume.

3 Q And, that would be with a meet point?

4 A It would be with a meet point. Whether it was at a
5 tandem or whether it's hardwired into an end office, I
6 can't speak.

7 Q Okay. And, so, that the question that we're dealing
8 with is that, if a Dixville Telephone Company customer
9 calls that Colebrook virtual NXX number, the question
10 is is how is that call handled and how is it billed?

11 A Okay. And, my response was focussing specifically on a
12 bill-and-keep regime that would be applied in the case
13 of ISP traffic, assuming that the FCC were upheld and
14 it pursued the bill-and-keep concept. And, under
15 bill-and-keep, the originating carrier would be
16 required to get the call to the terminating carrier.
17 And, I would refer you to the Office of Plans -- FCC
18 Office of Plans and Policy paper by Patrick DeGraba,
19 which I believe is OPP paper -- OPP Paper Number 33
20 that is referred to in the Intercarrier Compensation
21 NPRM, which refers to a plan known as "Central Office
22 Bill and Keep". And, under Central Office Bill and
23 Keep, it's the responsibility of the originating
24 carrier to bring the call to the central office of the

1 terminating carrier. Therefore, I would interpret the
2 bill-and-keep regime as contemplated by the FCC. And,
3 remember, this is in an NPRM. So, we don't know how
4 it's going to actually work.

5 But my read of what the FCC is
6 saying, or at least the FCC seems to be heading toward,
7 based on the DeGraba paper, is that it would be the
8 responsibility of the originating carrier to get the
9 call to the central office of the terminating carrier.
10 In that case, the originating carrier, whether it be an
11 Independent Company or a Bell company, and whether or
12 not it has or does not have an interconnection
13 agreement with the terminating carrier, would somehow
14 have to be responsible for getting it there. Which
15 means that, for originating traffic coming from the
16 Independent, the Independent would have to work out the
17 transitting arrangement with Verizon, in this case,
18 under that regime. That is how I read the NPRM. Now,
19 you know, that's what we're talking about. I just want
20 to make it very clear. We're talking about a Notice of
21 Proposed Rule Making that is, obviously, still pending.
22 So, exactly what happens at the back-end of that
23 process is anybody's guess. But the way I'm
24 interpreting the NPRM is that's what it says.

1 Q I have a few further questions, Dr. Selwyn.

2 A Are we going to be using that?

3 Q I don't think so.

4 A Okay.

5 CHAIRMAN GETZ: Excuse me, a procedural
6 matter. If you could print that, and we'll mark for
7 identification as Exhibit Number 7 --

8 MR. OSGOOD: The original one should be
9 5.

10 THE WITNESS: Six. Five was the --

11 MR. OSGOOD: I beg your pardon.

12 THE WITNESS: This was 5, the Colebrook
13 --

14 MR. OSGOOD: I beg your pardon. You're
15 correct. Six and seven.

16 (The diagrams were herewith marked as
17 Exhibits 6 and 7, respectively, for
18 identification.)

19 CHAIRMAN GETZ: Thank you. Mr.
20 Coolbroth.

21 MR. COOLBROTH: Thank you, Mr. Chairman.

22 BY MR. COOLBROTH:

23 Q Dr. Selwyn, in your testimony, where you were
24 identifying the obligations of the ILEC to deliver

1 traffic to the CLEC point of interconnection, you were
2 not referring to this situation involving Dixville
3 Telephone though, in that specific discussion?

4 A No. If we are dealing with a reciprocal comp. regime,
5 then I believe that the CLEC has an obligation to
6 establish a point of interconnection with each
7 operating company or otherwise arrange for some
8 financial relationship to handle transitting traffic,
9 if the volume of traffic is of sufficiently small
10 amount not to warrant a physical point of
11 interconnection. But Commissioner Brockway's question
12 went specifically to the bill-and-keep regime
13 envisioned by the FCC, with respect to ISP traffic, and
14 that's how I was responding.

15 Q And, your testimony regarding duties to interconnect
16 relates to, we discussed before, relates to
17 interconnection under 251(c) of the Telecom Act, is
18 that right?

19 A 251, yes, (c).

20 Q And, rural telephone companies have an exemption from
21 those requirements under Section 251(f), isn't that
22 right?

23 A They have an exemption, although I don't believe that
24 exemption permits them to block traffic.

1 Q But, in terms of -- they have an exemption under
2 Section 251 of the requirements of Section 251 (c),
3 however?

4 A They have an exemption with respect to an obligation to
5 enter into an interconnection agreement with a CLEC.
6 But I don't believe that allows them to block traffic.

7 Q In other words, like other carriers, they have
8 obligations under 251(a)?

9 A Correct.

10 Q And, the traffic that is currently travelling from
11 Independent Telephone Companies to CLECs is utilizing
12 these meet points with Verizon, and then Verizon
13 transport to the CLEC point of interconnection, that's
14 how it's happening now?

15 A If the CLEC does not have a point of interconnection
16 with the Independent Company.

17 Q And, the way that that's occurring is that Verizon
18 entered into interconnection agreements with or entered
19 an interconnection agreement with, for example, Global
20 NAPs that would allow for that to occur?

21 A I don't know all the details of the agreements, but
22 it's my understanding that transitting traffic would
23 typically be covered.

24 Q And, to your knowledge, is any Independent Telephone

1 Company a party to Verizon's interconnection agreement
2 with Global NAPs?

3 A I don't know.

4 Q Do you think it's possible that Independent Telephone
5 Companies are parties to Global NAPs' interconnection
6 agreement with Verizon?

7 A Well, you know, --

8 MR. SCHELTEMA: Your Honor, objection.

9 Asked and answered.

10 CHAIRMAN GETZ: Well, it seems that
11 there was some, I would characterize, not a meeting of the
12 minds here. If you could clarify your question, Mr.
13 Coolbroth. I'd like to hear the answer again.

14 BY MR. COOLBROTH:

15 Q Do you think that any Independent Telephone Company
16 signed Verizon's interconnection agreement with Global
17 NAPs?

18 A I like the previous version of that question better. I
19 doubt if they signed it. But whether, as a legal
20 matter, they are inherently, implicitly bound by it, I
21 don't know. Because Independent Companies have their
22 own agreements with Verizon, and Verizon has agreements
23 with CLECs. And, to the extent that there may be
24 provisions in the ICO, Independent Company/Verizon

1 agreements, that are in some way embraced within the
2 Verizon/CLEC agreements, I believe that is entirely
3 possible. And, whether or not they are explicit
4 parties doesn't necessarily mean that they get to cut
5 themselves off from any interactions with the CLEC.

6 Q I may have missed something in law school. I've heard
7 about third party beneficiary contracts that people
8 don't sign. But are you suggesting there's such a
9 thing as a third party obligable work contract that you
10 don't sign?

11 A Well, I missed a lot more than you did in law school
12 because I didn't go. So, what I'm simply saying is
13 that the Telecom Act obligates carriers to
14 interconnect. And, if Verizon is carrying out a
15 transitting function, that function may be addressed in
16 ICO agreements. For example, Verizon can handle
17 transitting traffic between two Independent Companies
18 that may not themselves have an interconnection
19 agreement, or two Independent Companies even in the
20 same local calling area may, in fact, use Verizon for
21 transitting traffic or may switch traffic through a
22 Verizon switch or do things like that, without
23 necessarily having to enter into an agreement with each
24 other. And, to the extent that -- all I'm saying

1 simply is, the mere fact that carriers interchange
2 traffic via a third carrier doesn't mean that the two
3 carriers at the ends of those calls necessarily have
4 agreements with each other, but, at the same time, the
5 lack of an agreement does not alter or diminish their
6 obligation to interchange traffic.

7 Q Is there a statutory provision in the Telecom Act that
8 you're referring to, when you argue in favor of the
9 Independent Telephone Company's obligation to deliver
10 traffic to Verizon's point of interconnection with
11 Global NAPs?

12 A I think it's generally covered within 251(a), or, you
13 know, even in various places in the 1934 Act. I can't
14 cite to anything specific, perhaps counsel can assist.

15 Q But the obligation under Section 251(a) apply to all
16 carriers, isn't that right?

17 A Of which Independent Companies are -- fall within the
18 category of "all".

19 Q And, so, isn't it every bit as likely that it requires
20 the CLEC to meet the Independent Telephone Company at
21 its exchange boundary?

22 A I don't think so. I mean, as I indicated, the opinion
23 I expressed is how I read the FCC's order. Now, if you
24 believe that my reading of the FCC's order, I mean, I'm

1 sorry, not order, of the NPRM. If you believe that the
2 scenario that I've described is possible, but you
3 disagree with it as a legal matter, I would very
4 strongly recommend that you file additional comments
5 with the FCC and so note, because I think that, as of
6 right now, the scenario I've described is what the FCC
7 is thinking.

8 Q I was just trying to pin down. So, we've been through
9 the statute. Is there any FCC rule that you're
10 specifically referring to with respect to this
11 obligation?

12 A I don't know.

13 Q And, apart from the Notice of Proposed Rule Making, is
14 there any specific FCC order that you're referring to?

15 A No, and I never said I was. I was answering the
16 question by of Commissioner -- Commissioner Brockway's
17 question in the context of bill-and-keep, as it would
18 apply to ISP-bound traffic, as discussed in the
19 rulemaking. So, I've not represented that this is what
20 the rule is. I'm not saying that a CLEC is not
21 obligated under the present regime to pay for
22 transitting traffic. I was answering a question of
23 what happens in a bill-and-keep regime to ISP-bound
24 traffic, if (a) the FCC's jurisdiction is upheld, and

1 (b) the FCC proceeds with the bill-and-keep approach,
2 as addressed in the NPRM.

3 MR. COOLBROTH: I have no further
4 questions, Mr. Chairman.

5 CHAIRMAN GETZ: Thank you, Mr.
6 Coolbroth. Ms. Cusack.

7 MS. CUSACK: Yes, Mr. Chairman. Based
8 on Commissioner Brockway's question, I just had a couple
9 follow-ups, just to make the record complete with what we
10 were trying to get from Dr. Selwyn. It's probably about
11 four questions.

12 CHAIRMAN GETZ: Okay. Proceed.

13 MS. CUSACK: Thank you.

14 BY MS. CUSACK:

15 Q Dr. Selwyn, just referring to the right-hand diagram --
16 you don't have to get up. You can --

17 A Well, I can't see it from here.

18 Q Okay. You want a copy?

19 A That would help. Then, I don't have to get up.

20 Q Again, just referring to the right-hand side, where
21 we're talking about the "CLEC FX", --

22 A Right.

23 Q -- or what you're saying is the VNXX service. And,
24 talking about a voice call now. There's a Concord

1 customer there that has the FX service in Colebrook,
2 correct?

3 A Right.

4 Q Okay. And that he receives -- that Concord customer
5 can receive inbound calls from anyone in Colebrook?

6 A Dialed as a local call.

7 Q Dialed as a local call, correct.

8 A To the Colebrook number, yes.

9 Q Now, the Concord customer wants to make an outbound
10 call to Colebrook.

11 A Right.

12 Q There is nothing prohibiting him from doing so?

13 A The outbound call -- well, there's certainly nothing
14 prohibiting from doing so. The question is "how will
15 he be rated?"

16 Q There's nothing prohibiting him from doing so?

17 A No. You know, nor is there, I mean, just to clarify,
18 the Concord customer of Verizon who has the Colebrook
19 dial tone can, you know, use that dial tone to make a
20 call to Alaska. I mean, there's -- or back to Concord.
21 There's nothing prohibiting him from doing that either.
22 It's a matter of rating.

23 Q Okay. Now, how, though, does the CLEC, or, in this
24 case, Global NAPs, and we're talking about a voice

1 call, carry that call to Colebrook?

2 A The call would be handed off to Verizon in exactly the
3 same way as it would if that Concord customer had a
4 Concord phone number. In other words, it makes no
5 difference. The call is handed off to Verizon at the
6 point of interconnection, and Verizon carries the
7 traffic on its side of the point of interconnection to
8 wherever it's supposed to go.

9 If Global NAPs rates that call, and
10 this is the key thing that I want to emphasize, because
11 apparently there's misunderstanding. The outward
12 calling area that Global NAPs may offer this customer
13 may or may not correspond with the inward calling area
14 associated with that VNXX code. Global NAPs might
15 offer the customer the Colebrook local calling area, it
16 might offer the customer the entire State of New
17 Hampshire local calling area, it might offer the
18 customer the Concord local calling area. Whatever
19 Global NAPs does will affect the way the paragraph is
20 interchanged. If Global NAPs provides the call back to
21 Colebrook on a local basis, then the traffic is
22 interchanged as a local call.

23 Q Okay. Let me just ask this. If Global NAPs hands that
24 call off to Verizon, the ILEC, at its point of

1 interconnection in Manchester, --

2 A Right.

3 Q -- and Manchester then delivers the call back up to
4 Colebrook, --

5 A Right.

6 Q -- that's a toll call.

7 A Not necessarily.

8 Q But it is routed like a toll call?

9 A Well, it's routed as a call between the point of
10 interconnection and Colebrook, however that happens to
11 get routed. Supposing Global NAPs has a customer in
12 Colebrook, with actual facilities in Colebrook, that
13 originated the call, now this gets us back to my Figure
14 3, okay? And, if we look at my Figure 3, and just to
15 sort of make it simple, let's, since we're talking
16 about Colebrook, where it says "Hanover", just call it
17 "Colebrook", okay? And, you look at my Figure 3.
18 There we have the -- and let's -- Figure 3 has the call
19 going from Verizon to the CLEC. Let's just flip that
20 and assume the call begins at the CLEC and goes to the
21 Verizon customer. In that event, Global NAPs will
22 physically have a wire that transports the call from
23 Colebrook, all the way down to Manchester to its
24 switch, okay?

1 Q But that's not what we're talking about right now.
2 We're talking about Global NAPs has just handed the
3 call off to the ILEC, at the point of interconnection
4 in Manchester. And, it's now -- the ILEC has now
5 routed that call to Colebrook.

6 A Correct.

7 Q So, there's then toll access that is associated with
8 that.

9 MR. BOECKE: Can I just ask one
10 clarifying question in your question. Is it terminated at a
11 Verizon loop in Colebrook?

12 MS. CUSACK: Yes, it would.

13 MR. BOECKE: Okay. It's not to another
14 GNAPs customer in Colebrook?

15 MS. CUSACK: No. It's just --

16 MR. BOECKE: I just want to understand
17 the question.

18 THE WITNESS: Can I erase this or just
19 -- or copy this right here?

20 CHAIRMAN GETZ: Sure. Go ahead. And,
21 we'll move on to number 8, if we need to.

22 BY MS. CUSACK:

23 Q Let me just ask you this question, Dr. Selwyn. Does
24 Global NAPs pay terminating toll access or do they not?

1 A And, my answer depends on whether or not Global NAPs
2 charges for the call as a toll call. If they do, they
3 do; if they don't, they don't. If they charge for it
4 as toll, they pay terminating access. If they charge
5 for it as local, then it's recip. comp.

6 Q And, you're saying that it's Global NAPs' decision?

7 A Absolutely. And, it should be.

8 MR. BOECKE: Can I follow up on that?

9 THE WITNESS: Go ahead.

10 MR. BOECKE: Just to make sure I
11 understand.

12 BY MR. BOECKE:

13 Q You're telling me that a Global NAPs Concord customer,
14 calling a Verizon Colebrook customer, where Global NAPs
15 has decided to give it's customer in Concord the whole
16 state on a local basis, would not pay access charges to
17 Verizon?

18 A That's what I'm telling you.

19 Q Have you read the interconnection agreement between
20 Verizon and Global NAPs?

21 A I've looked at parts of it.

22 Q Okay. So, you don't know whether, under the contract,
23 access would apply?

24 A I don't. I'm --

1 Q Okay. But, in your view, it shouldn't apply?

2 A Well -- okay. If I can complete my answer --

3 Q Okay. I'm sorry.

4 A -- to Staff's question. Let us assume for the sake of
5 argument that Global NAPs has a customer, in addition
6 to having this customer in Concord, it also has a
7 customer in Colebrook. And, that customer has a
8 physical connection to the Global NAPs switch in
9 Manchester. Okay? And, that customer places a call to
10 another telephone, a Verizon telephone in Colebrook.
11 All right? So, we have the Global NAPs customer in
12 Colebrook calling a Verizon customer in Colebrook.
13 Global NAPs brings that call into its switch in
14 Manchester and hands it off to Verizon at the point of
15 interconnection in Manchester, and Verizon carries that
16 call all the way back to its customer in Colebrook.

17 This is a CLEC, and this is VZ
18 (indicating). All right? In that situation, Verizon
19 is carrying the call from Manchester to Colebrook, but
20 it is a local call, because the Colebrook CLEC customer
21 dialed a Colebrook number of a Verizon customer.

22 Q So, --

23 A The work that -- let me finish, please. The work that
24 Verizon does, in carrying that call from this point to

1 here (indicating), is exactly the same, whether or not
2 this call is originated in Colebrook on the Global NAPs
3 network or in Concord on the Global NAPs network. Once
4 it's handed off to Verizon, Verizon's work is the same.

5 Q But the difference is that now there's a physically
6 located Global NAPs customer in Colebrook.

7 A Only for this -- only with respect to this one
8 particular call. But all of the other VNXX customers
9 in Colebrook have nothing to do with him.

10 Q Okay.

11 A All right? I would just make one other observation,
12 and just to clarify. The California PUC's rules on
13 this, I think are -- are telling with respect to its
14 interpretation. In California, California maintains
15 the local calling area that the -- the ILEC local
16 calling area, a point with which I happen to disagree,
17 does not allow the CLEC to -- well, it allows the CLEC
18 to define a local calling area anywhere it wants, but
19 it -- the CLEC would have to pay access if it goes
20 beyond the local calling area. But the local calling
21 area that is associated with the CLEC's customer is
22 that which is associated with the CLEC's customer's
23 phone number. So, if the California rule were to apply
24 here, okay? If our Concord customer has a Colebrook

1 phone number, and places a call on this phone to
2 Colebrook, routed this way (indicating) through
3 Manchester, and then back up on the Verizon network, in
4 the California rule, that would unambiguously be a
5 local call, and not subject to access charges. And,
6 the reason is because the Concord customer is using a
7 Colebrook phone number to place the call.

8 Same customer, same everything,
9 except he's using a different phone number, like a
10 Concord phone number, it's toll. But, if he uses the
11 Colebrook number, it's local. And, in my view, that
12 it's a correct treatment in the sense that it's
13 recognizing that the CLEC has the ability to provide
14 service and to define its services anyway it wants.
15 But it's wasteful of telephone numbers, because, in
16 order for a CLEC, for example, to give somebody
17 LATA-wide local calling, they would have to, under the
18 California rule, they would have to assign each and
19 every customer. And, I'm talking about individual
20 residential customers, a whole array of phone numbers.
21 In other words, if the California rule were to apply in
22 New Hampshire, and Global NAPs wanted to provide
23 statewide local calling, it would have to assign every
24 one of its residential customers 40 some odd telephone

1 numbers. And, that doesn't make any sense. But that
2 having been said, that's what California is doing.

3 CHAIRMAN GETZ: Is that all, Ms. Cusack?

4 MS. CUSACK: Yes, Mr. Chairman.

5 CHAIRMAN GETZ: Thank you. Mr.
6 Scheltema.

7 MR. SCHELTEMA: Yes, your Honor. Two
8 things. First, I'd like to move the exhibits marked, I
9 guess, 2 through 8 at this point.

10 CHAIRMAN GETZ: Well, at this point,
11 we'll mark for identification this third diagram as Exhibit
12 Number 8.

13 (The document, as described, was
14 herewith marked as Exhibit 8 for
15 identification.)

16 CHAIRMAN GETZ: But typically we'll
17 reserve striking the identifications until the end of the
18 hearing.

19 MR. SCHELTEMA: Okay. Thank you. The
20 other thing is that I'd like to suggest that Dr. Selwyn will
21 be available next Wednesday, so that these parties could
22 have an adequate opportunity to -- Wednesday?

23 MS. CUSACK: Monday.

24 CHAIRMAN GETZ: We have a hearing date

1 scheduled for a week from today, Monday, the 22nd.

2 MR. SCHELTEMA: That's what I mean.

3 That way, we would provide the adequate opportunity to allow
4 the parties to -- that will allow for the parties to review
5 the testimony that was filed today, and give them an
6 opportunity to actually go through it.

7 THE WITNESS: Before you commit me to
8 that, may I check my calendar?

9 MR. SCHELTEMA: Absolutely.

10 THE WITNESS: I think so.

11 CHAIRMAN GETZ: Okay. Then, we will
12 have Dr. Selwyn back on next Monday.

13 MR. SCHELTEMA: Thank you.

14 CHAIRMAN GETZ: Is there anything else?

15 MR. SCHELTEMA: Subject to his calendar
16 at this point.

17 CHAIRMAN GETZ: Well, I guess the next
18 order of business is the direct examination of the Verizon
19 witnesses. While we're waiting, if you could at least have
20 your witnesses come up front and start distributing any
21 exhibits that you would like marked for identification. Mr.
22 Scheltema.

23 MR. SCHELTEMA: Yes, that's what, the
24 22nd, that Monday?

1 CHAIRMAN GETZ: Yes.

2 MR. SCHELTEMA: Yes, he is available.

3 CHAIRMAN GETZ: Okay. Thank you.

4 MR. SCHELTEMA: Thank you.

5 (Whereupon Alan S. Cort and Margaret S.
6 Cole were duly sworn and cautioned by
7 the Court Reporter.)

8 CHAIRMAN GETZ: Just one moment before
9 we proceed. Mr. Denny-Brown, I believe you wanted to make
10 an appearance for the record?

11 MR. DENNY-BROWN: Yes. I'm Doug
12 Denny-Brown, for RNK, Inc., doing business as RNK Telecom,
13 just making an appearance. Thank you.

14 CHAIRMAN GETZ: Mr. Boecke.

15 MR. BOECKE: The only testimony Verizon
16 has today is the prefiled testimony, we have no additional
17 exhibits. I have copies here for anyone who doesn't have
18 it. But we just have three pieces of testimony that's all
19 been prefiled; direct testimony, supplemental testimony, and
20 then our rebuttal testimony.

21 ALAN S. CORT, SWORN

22 MARGARET S. COLE, SWORN

23 DIRECT EXAMINATION

24 BY MR. BOECKE:

- 1 Q I would ask the panel to focus first on the prefiled
2 direct testimony that was filed January 12th, 2001.
3 And, the first thing I note is the record should note
4 that Ms. Cole is adopting the prefiled testimony on
5 behalf of Mr. Masoner. Mr. Cort will adopt Mr. Cort's
6 part of that prefiled testimony. But together this
7 panel, am I correct, that you have reviewed the
8 questions and answers in your prefiled direct testimony
9 and your answers would be as given here?
- 10 A (Cole) Yes.
- 11 A (Cort) Yes.
- 12 Q Are there any changes or corrections to note to this
13 prefiled direct testimony?
- 14 A (Cole) No.
- 15 A (Cort) No.
- 16 Q And, that testimony consists, for the record, 27 pages
17 of questions and answers?
- 18 A (Cole) I'll take you on the page count.
- 19 Q Okay. And, the panel also prepared supplemental
20 testimony in this proceeding, is that true?
- 21 A (Cole) Yes.
- 22 Q And, that testimony was prepared under your direction
23 and supervision, and there are no changes to make to
24 that prefiled supplemental testimony?

1 A (Cole) That is correct.

2 A (Cort) Correct.

3 Q And, likewise, the panel prepared rebuttal testimony
4 that was filed on March 29th, I believe -- no, I'm
5 sorry, April 5th?

6 A (Cole) Yes.

7 Q And, were there any corrections or changes to note in
8 that testimony?

9 A (Cole) No.

10 MR. BOECKE: I would mark the direct as
11 "Exhibit 9", the supplemental as "10", and the rebuttal as
12 "11". And, with that, these witnesses are available for
13 cross-exam.

14 CHAIRMAN GETZ: Okay. The testimony of
15 Verizon will be marked for identification as described by
16 Mr. Boecke.

17 (The documents, as described, were
18 herewith marked as Exhibits 9, 10 and
19 11, respectively, for identification.)

20 CHAIRMAN GETZ: And, you say your
21 witnesses are now available?

22 MR. BOECKE: Yes, they are. They're
23 available.

24 CHAIRMAN GETZ: Mr. Coolbroth.

1 MR. COOLBROTH: Thank you, Mr. Chairman.
2 See if people have stamina to keep going with these same
3 issues.

4 CROSS-EXAMINATION

5 BY MR. COOLBROTH:

6 Q I'd like to ask the panel to consider a series of
7 hypotheticals that are designed to develop Verizon's
8 position regarding the effect of the FCC's order on
9 remand. The first hypothetical that I have is a
10 Verizon customer located in Manchester, within the 622
11 NXX, who dials an ISP customer of Global NAPs, using
12 Global NAPs's 584 Manchester exchange. Where the ISP
13 modem bank is located in Manchester. How is that call
14 routed and rated and what is the intercarrier
15 compensation?

16 A (Cole) Since the originating location is in Manchester,
17 and the ISP is located in Manchester, that is under the
18 FCC's Internet order. The compensation would be
19 whatever compensation was due to Global NAPs under that
20 order.

21 Q So, there may be some transition reciprocal
22 compensation under the FCC's order?

23 A (Cole) I -- Yes. There could be some. There is a
24 reduced scale, assuming that Global NAPs was entitled

1 to compensation in the first quarter of 2001. I don't
2 know if Global NAPs was entitled to compensation in the
3 first quarter of 2001. So, I don't know if the sliding
4 scale would apply to them.

5 Q Okay. My second hypothetical: Verizon customer
6 located in Manchester, from a 622 number, dials an ISP
7 customer of Global NAPs using Global NAPs's 584
8 Manchester exchange, where the ISP modem bank is
9 located in Nashua, New Hampshire. Same question.

10 A (Cole) Are you saying that the Nashua ISP has been
11 given a 584 number to appear to be in Manchester?

12 Q That's correct.

13 A (Cole) I think that this matter may be out of the
14 jurisdiction of the New Hampshire Commission under the
15 FCC's order. The FCC order was clear when it said it
16 was assuming all jurisdiction for Internet traffic.
17 Because, in this example, you've used an ISP, I think
18 it may be out of the jurisdiction of the New Hampshire
19 Commission. However, I think the FCC was referring to
20 instances where Internet service providers are in the
21 same local calling area of the original -- originating
22 caller. So, I think there is a question as to whether
23 or not some alternative arrangement besides or in
24 addition to the FCC's Internet compensation may apply

1 in this instance.

2 Q I'm trying to understand how then Verizon is going to
3 rate this call and how Verizon would handle the
4 reciprocal compensation or other intercarrier
5 compensation for this call?

6 A (Cole) Because the number has been applied in the way
7 that it has been applied. As far as the billing
8 systems are concerned, we're going to believe that the
9 ISP is located in Manchester. In addition, the system
10 is not going to be able to identify that the traffic
11 destined to this ISP -- I'm sorry. Because of the way
12 the number has been assigned, the systems are not going
13 to understand that the Internet service provider is in
14 Nashua. The systems are going to believe that the
15 Internet service provider is in Manchester. In
16 addition, we can't identify Internet service provider
17 traffic in general. So, what's going to happen is
18 GNAPs is going to render us a bill for "X" traffic.
19 And, we're going to compare that against our billings
20 to them for "Y" traffic. Implement the FCC's order
21 using the 3:1 presumption. And, then, we're paid
22 reciprocal compensation for the traffic that's assumed
23 to be local traffic, traffic below the 3:1 ratio. And,
24 for traffic above the 3:1 ratio, they would be

1 compensated whatever is appropriate under the FCC's
2 order.

3 Q Okay. My third hypothetical is a Verizon customer
4 located in Concord, with a 224 telephone number, who is
5 also a Verizon toll service customer. Dials an ISP
6 customer of Global NAPs, using Global NAPs's 584
7 Manchester exchange, where the ISP modem bank is
8 located in Manchester. How is that call rated and what
9 is the intercarrier compensation?

10 (Witness Cole conferring with Witness
11 Cort.)

12 BY THE WITNESS:

13 A (Cole) I'm sorry. I just wanted to confirm some
14 things. I'm not as good with geography in Manchester
15 as maybe I should be. Concord and Manchester are not
16 in the same local calling area. So, the call that
17 originated in Concord, and went to Manchester, is not
18 going to be a local call to our systems. It's going to
19 be a toll call.

20 BY MR. COOLBROTH:

21 Q So, the ISP -- I'm sorry. So, the Verizon customer
22 will be charged for a toll call, is that correct?

23 A (Cole) Yes.

24 Q And, Verizon's position is that is not a call that

1 would be eligible either for reciprocal -- or, that
2 would be handled under the FCC transition rule, is that
3 right?

4 A (Cole) No, I don't believe it would be.

5 Q When you say "no", you're agreeing with me, is that
6 right?

7 A (Cole) Yes, I am. I'm sorry.

8 Q My next hypothetical is the same as the last one, in
9 other words, a Verizon customer located in Concord,
10 who's presubscribed or is going to dial an ISP customer
11 of Global NAPs using Global NAPs's 584 Manchester
12 exchange, where the ISP modem bank is in Manchester.
13 But this time the Verizon customer is presubscribed to
14 AT&T for intra-LATA toll. How will that call be rated
15 and what will be the intercarrier compensation?

16 A (Cole) Okay. It would be a toll call still, just now
17 that it's handed -- it's handled by AT&T, the access
18 charges that would apply to AT&T would apply. It would
19 be originating access to AT&T, and then terminating
20 from AT&T.

21 A (Cort) Yes.

22 A (Cole) I'm sorry, AT&T to Global NAPs.

23 Q So that AT&T would be charged originating access by
24 Verizon, is that right?

1 A (Cole) Yes.

2 Q And, AT&T presumably would be charged terminating
3 access by Global NAPs?

4 A (Cole) Yes.

5 Q And, the Verizon customer would be charged toll by
6 AT&T?

7 A (Cole) Yes, I believe that would be correct. It's the
8 relationship -- their relationship would be to AT&T
9 from the retail perspective, so, yes.

10 Q Now, my -- you'll like this -- last hypothetical, is
11 the Verizon customer located in Concord, with a 224
12 telephone number, who is presubscribed to AT&T for
13 inter-LATA toll service, is crazy enough to dial an ISP
14 in Los Angeles, California, using a number that starts
15 with the 213 area code. How would that call be rated
16 and what would be the intercarrier compensation?

17 A (Cole) I take it 213 is LA?

18 Q That's what I got out of the phone book.

19 A (Cole) Okay. That's an interexchange call, and it
20 would be, let's see, we're originating the call, so we
21 would charge originating access to AT&T. AT&T would be
22 responsible of paying the terminating carrier
23 terminating access, and they would take care of the
24 relationship between themselves and the person that

1 originated the call and whatever long distance charges
2 they had agreed on.

3 Q Okay. Does Verizon agree that interconnection is the
4 physical connection of networks?

5 A (Cole) Yes.

6 Q And, do the ITCs interconnect with Verizon at the
7 Manchester tandem?

8 A (Cole) I know we interconnect with independents. I
9 can't tell you where we do that.

10 MR. COOLBROTH: Make that a record
11 request, whether Verizon is aware of any interconnection
12 that the independents have with Verizon at the Manchester
13 tandem?

14 MR. BOECKE: We can take that. I'm
15 pretty sure, in the direct testimony, there is a description
16 of the mid span point with independents. I can't find it
17 right now. But, if that's the answer, that will be the
18 answer to your question.

19 CMSR. GEIGER: We will reserve Exhibit
20 12 for the response to that data request. And, when you
21 find it, we can just --

22 MR. BOECKE: I think it's 11, isn't it?
23 Or did I miss --

24 WITNESS CORT: No, it's 12.

1 CMSR. GEIGER: I think it's 12.

2 WITNESS CORT: The rebuttal is 11.

3 MR. BOECKE: Okay.

4 (Exhibit 12 reserved)

5 WITNESS CORT: Would you repeat that?

6 Would you repeat your question once more, just so I'm clear
7 on it?

8 MR. COOLBROTH: Are you aware of any
9 Independent Telephone Companies in New Hampshire that
10 interconnect with Verizon at the Manchester tandem?

11 BY MR. COOLBROTH:

12 Q Are you aware of whether any Independent Telephone
13 Companies do have interconnection with Verizon at meet
14 points at exchange boundaries?

15 A (Cort) Yes, I am aware. That, generally, we
16 interconnect with the independents at meet points,
17 which generally are at or near the boundaries.

18 Q And, independents exchange local traffic with Verizon
19 at these meet points?

20 A (Cort) Yes, that's correct.

21 Q And, they exchange other traffic at these meet points
22 as well?

23 A (Cort) Yes, that's correct.

24 Q And, do these interconnection points predate the

1 Telecommunications Act of 1996 generally?

2 A (Cort) Generally, they do.

3 Q For calls from Independent Telephone Company customers
4 to Verizon company -- Verizon customers located within
5 the same local calling area, do many of those calls
6 travel over dedicated trunks?

7 A (Cort) I believe we have a combination of routings. We
8 have some dedicated end office to end office trunks,
9 for local calls only. And, in some instances, we also
10 have local calls that are routed through the tandem.

11 Q And, the ones that -- the calls that are routed through
12 the tandem, would those -- would it be correct to
13 characterize those as either overflow calls or, in some
14 instances, new EAS routes?

15 A (Cort) That would be correct.

16 Q Toll traffic from Independent Telephone Companies, is
17 that all routed to the tandem?

18 A (Cort) I believe all toll traffic is routed to the
19 tandem, yes.

20 Q And, just to describe how that routing works, from the
21 Independent Telephone Company customer who dials,
22 first, the call is going to travel onto the public
23 switched network over loop plant to the Independent
24 Telephone Company central office, is that right?

1 A (Cort) Yes.

2 Q And, then will travel from the Independent Telephone
3 Company's central office to the meet point with
4 Verizon?

5 A (Cort) Yes.

6 Q And, then be transported either over dedicated
7 facilities or to a local Verizon central office or
8 transported to the Verizon tandem, is that right?

9 A (Cort) This is for toll traffic?

10 Q For all traffic.

11 A (Cort) All traffic. That would be correct.

12 Q And, in the case of toll traffic, the routing would be
13 to the -- from the Independent Telephone Company
14 boundary over Verizon facilities to the interexchange
15 carrier's point of presence?

16 A (Cort) Yes.

17 Q Now, Independent Telephone Company traffic, customer
18 traffic to CLECs, did -- have CLECs, to your knowledge,
19 arranged for dedicated facilities between, utilizing
20 Verizon's network?

21 A (Cort) Have CLECs arranged for dedicated traffic to the
22 independents?

23 Q Right.

24 A (Cort) I'm not aware of any such arrangements, no.

1 Q Did Verizon arrange for dedicated facilities to handle
2 traffic between CLECs and independents?

3 A (Cort) Not that I'm aware of, no.

4 Q So, Verizon determined on its own to route that traffic
5 to the Verizon tandem?

6 A (Cort) Yes.

7 Q Did Verizon enter into any arrangements with
8 Independent Telephone Companies regarding that
9 CLEC-bound traffic?

10 A (Cort) I'm not aware of any specific arrangements, no.

11 Q Basically, then, Verizon is allowing the use of its
12 facilities for transmission of traffic between
13 independents and CLECs, is that right?

14 A (Cort) Under the current agreement that the parties all
15 have agreed to, yes.

16 Q And, when you say "the parties", that means Verizon and
17 each CLEC that's a party, is that right?

18 A (Cort) I believe that Verizon and the CLECs, who are at
19 least the parties to this proceeding, and the
20 independents, have all agreed on an interim policy.

21 Q So, you're referring to the moratorium that --

22 A (Cort) Yes.

23 Q But, in terms of any written agreement among parties,
24 is there any written agreement between -- strike that.

1 At the time that Verizon agreed with CLECs to handle
2 traffic between Independent Telephone Companies and
3 CLECs, did Verizon enter into any arrangements with
4 Independent Telephone Companies governing that traffic?

5 A (Cort) No, we had not. I think, in fact, because
6 traffic arrangements, if you will, between the CLECs
7 and the independents, despite efforts of all parties to
8 arrange those, because those weren't accomplished, I
9 think that's why parties agreed to the moratorium to
10 begin with.

11 Q In designing interconnection agreements with CLECs, did
12 Verizon consult with Independent Telephone Companies
13 regarding the handling of traffic originating from
14 Independent Telephone Company customers?

15 A (Cort) Not that I'm aware of, no.

16 MR. COOLBROTH: That concludes my
17 questioning, Mr. Chairman.

18 CHAIRMAN GETZ: Okay. Thank you. Mr.
19 Donahue, do you have anything for this witness or these --

20 MR. DONAHUE: We have no questions.
21 Thank you.

22 CHAIRMAN GETZ: Thank you. Ms. Carney
23 Johnson?

24 MS. JOHNSON: I have no questions,

1 Commissioner.

2 CHAIRMAN GETZ: Ms. Parker?

3 MS. PARKER: No questions.

4 CHAIRMAN GETZ: And, Mr. Denny-Brown?

5 MR. DENNY-BROWN: No questions.

6 CHAIRMAN GETZ: Mr. Scheltema?

7 MR. SCHELTEMA: Oh, I wouldn't want to
8 disappoint you.

9 CHAIRMAN GETZ: How much
10 cross-examination do you anticipate?

11 MR. SCHELTEMA: Twenty minutes, if that.

12 CHAIRMAN GETZ: Who else would be -- Mr.
13 Fleming, will you have cross-examination?

14 MR. FLEMING: I will. Probably not more
15 than 20 minutes also.

16 CHAIRMAN GETZ: Twenty minutes. And,
17 Ms. Ross?

18 (Atty. Ross nodding affirmatively.

19 CHAIRMAN GETZ: And, Staff? Okay. We
20 will -- Mr. Cort.

21 WITNESS CORT: Could I request a five
22 minute environmental break for my co-witness here?

23 CHAIRMAN GETZ: Actually, I think we'll
24 give you much more than that. We will resume the

1 cross-examination tomorrow morning.

2 WITNESS CORT: Thank you.

3 CHAIRMAN GETZ: At ten o'clock.

4 WITNESS CORT: That should be

5 sufficient.

6 (Hearing adjourned at 4:39 p.m. and to
7 reconvene on April 16, 2002, commencing
8 at 10:00 a.m.)

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